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Senate

The Senate met at 9:45 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:

Almighty God, our day is filled with challenges and decisions. In the quiet of this magnificent moment of conversation with You we dedicate this day. We want to live it to Your glory.

We praise You that it is Your desire to give Your presence and blessings to those who ask You. You give strength and power to Your people when we seek You above anything else. You guide the humble and teach them Your way. Help us to humble ourselves as we begin this day so that no self-serving agenda or self-aggrandizing attitude will block Your blessings to us or to our Nation through us. Speak to us so that we may speak with both the tenor of Your truth and the tone of Your grace.

Make us maximum by Your spirit for the demanding responsibilities and relationships of this day. We say with the Psalmist, *God, be merciful to us and bless us, and cause Your face to shine upon us, that Your way may be known on earth, Your salvation among the nations.*—Psalm 67:1–2. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator COCHRAN of Mississippi, is recognized.

SCHEDULE

Mr. COCHRAN. Mr. President, this morning the Senate will resume consideration of S. 1033, the agriculture appropriations bill.

By previous consent, there will be 10 minutes of debate equally divided between Senator COCHRAN and Senator WELLSTONE on the Wellstone amendment regarding school breakfast outreach.

Also, by consent, at 10 a.m., the Senate will proceed to a series of rollcall votes on the remaining amendments to the agriculture appropriations bill, including final passage.

Following disposition of the agriculture appropriations bill, it is the intention of the majority leader to proceed to consideration of the transportation appropriations bill.

Therefore, Members can anticipate additional rollcall votes throughout today's session of the Senate.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS, 1998

The PRESIDING OFFICER (Mr. BROWNBACK). Under the previous order, the Senate will now resume consideration of S. 1033, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1033) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Wellstone amendment No. 972, to provide funds for outreach and startup of the school breakfast program.

AMENDMENT NO. 972

The PRESIDING OFFICER. By previous order, we have 10 minutes on the Wellstone amendment: 5 minutes controlled by the Senator from Minnesota and 5 minutes controlled by the floor manager of the bill.

Who seeks time?

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Greg Renden, an intern in my office, be allowed to be on the floor for the duration of today.

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

Mr. WELLSTONE. I thank the Chair.

Mr. President, I offered this amendment last night. We had a fairly thorough discussion. I don't think this is an adversarial relationship with my colleague from Mississippi.

Let me just briefly summarize.

This amendment revives what is called the Outreach and Start Up Grant Program for school breakfasts. Let me point out to my colleagues what this is about.

This is a Children's Defense Fund poster. ''Remember these hungry kids in China? Now they are in Omaha.'' They could be in any of our States.

We have 5.5 million American children who do not regularly get enough to eat. There was a $5 million outreach program that we eliminated last year in the welfare bill. I don't think colleagues knew what they were voting on. They did when it came to the overall welfare bill. But this was one tiny provision.

The argument that was made about this outreach program was that it was too successful. That is to say, we have 8 million children who could qualify for the School Breakfast Program but don't receive it because many school districts and States aren't yet able to set it up.

This $5 million outreach program made a huge difference. It was very successful, and, indeed, the School Breakfast Program is credited as being one of the most successful nutritional programs in our country.

I fear that too many of my colleagues do not understand that there are children in our country who go to school hungry, and we are not doing very much about it. When children go to

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

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school hungry, they don't do well in school, and when they don't do well in school they can't learn, and when they are adults later on they can't earn.

It is very shortsighted that we eliminated this program. We should not have done so.

Mr. President, there are 8 million children spread across 27,000 schools who go to school hungry or are malnourished or without enough to eat. The distinctions aren't that important. We can do better.

For $5 million we can have an outreach program that will enable more of our States and more of our school districts to provide a school breakfast, a nutritious meal, to children before they start school.

Mr. President, again this is an extremely effective program. Study after study has really pointed out that the School Breakfast Program makes an enormous difference. It makes an enormous difference in terms of overall test scores. It makes an enormous difference in terms of whether students drop out of school or not, whether they arrive at school on time, and how well they do.

Clearly this amendment speaks to priorities. Surely we can find $5 million.

Mr. President, the offset is from funds allocated to the crop insurance companies for which right now the total amount is $202 million. In the Senate we have $24 million more than the House appropriated. We have $52 million more than the President appropriated.

The GAO in a very critical report of this insurance program pointed out that there is $81 million more than the companies' expenses for selling and servicing crop insurance.

I am very careful to maintain the integrity of this program—a mere $5 million transfer, $5 million out of $24 million more than the House allocated, $5 million out of $52 million we have more than the President asked for, which could go to an outreach program for school breakfast.

I make this appeal to colleagues. There are too many children in our country who are malnourished. There are too many children who cannot learn. There are too many children who have rotting teeth because they don't get the decent meals that they deserve and the adequate meal that they deserve and the nutrition that they deserve. There are too many children who aren't able to concentrate in school. There are too many children who suffer from health care problems because they don't have an adequate diet.

We never should have done that. We never should have done this. We eliminated the most successful outreach program—total cost for the whole Nation, $5 million.

Surely it is not asking too much of my colleagues to allocate a transfer of this small amount of money to make sure that we provide children with an adequate breakfast, with a decent meal, so that they can start school on the right foot and do well.

Mr. President, how much time do I have left?

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

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I yield myself such time as I may consume to remind Senators that this is an issue that came up during the welfare reform debate. The President proposed repeal of these startup grants during last year's welfare reform debate.

In addition, the Democratic substitute welfare reform bill and the Republican welfare reform bill contained a provision to repeal these grants. Funds were taken from the grant program to expand the school breakfast and summer food service programs.

Additionally, the Senate voted on a similar proposal to the Wellstone amendment on the Department of Defense authorization bill on July 9 and defeated it by a vote of 65 to 33.

The question is not whether we need to do more in terms of acquainting students and school districts and parents with the availability of these important nutrition programs. The question is: Do we need Federal dollars that could otherwise go to the feeding programs themselves to be diverted for that purpose, or do we need to divert, as the Senator suggests, funds from other parts of this appropriations bill which are needed for other matters?

Our suggestion is that we try to do a better job of working with local school districts, with parent groups, with the schools themselves, to make sure that all students are aware of the availability of these programs.

We have increased funding for all of the food nutrition programs as a whole. The WIC program, for example, has over $200 million increased funding in this bill to guarantee that the current participation rate will not be compromised as a result of our effort to reduce spending and balance the budget.

We are protecting those who are vulnerable. We are protecting those who need assistance to meet their nutrition needs in this budget.

This is a sensitive bill on this subject, and I urge all Senators to vote against this amendment.

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

I move to table the Wellstone amendment, and 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. COCHRAN. Mr. President, the vote on the amendments under the order will commence at 10 a.m. We have not yet reached that hour.

Let me, for the information of Senators, remind them that we have other amendments that were stated in the order as subject to votes beginning at 10 o'clock this morning with 2 minutes for debate between each amendment, which will be stacked with time equally divided.

Those amendments under the order are the Wellstone amendment; the managers' package, which was adopted last night; the Bingaman amendment on CRP, which we are advised will not be offered; the Robb amendment on farmers' civil rights, which we hope will be resolved on a voice vote. We have proposed an alternative to the Robb amendment which is under consideration now, we are told, and a Johnson amendment on livestock packers' issues. We are advised that that will not be offered.

So, with the vote on the motion to table the Wellstone amendment, and if we do not need a vote on the Robb amendment, then we will move to final passage immediately after the vote on the motion to table the Wellstone amendment.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that David Schindel, a legislative fellow in my office, be granted floor privileges for the remainder of the day.

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

Who seeks recognition?

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

FARMERS' CIVIL RIGHTS

Mr. ROBB. Mr. President, I have an amendment that we have been working very hard to work out. I commend and appreciate the cooperation of the chairman and the ranking member of the Agriculture Committee.

It is an amendment that has been requested specifically by the Secretary of Agriculture to address a very serious problem. We have had documented discrimination by the U.S. Department of Agriculture against minority and impoverished farmers over an extended period of time. A report that he requested that took 90 days to compile again documented the same problem. We have reports going back to 1995 to document the problem.

To the best of my knowledge, no Senator who has worked with me or worked on this particular problem has suggested in any way, shape, or form that the problem does not exist and that we do not have an obligation to solve it. The only difficulty that we have run into is identifying the precise offset. The offset that the Secretary of the Department of Agriculture recommended is one in terms of a very small reduction in the crop insurance Program, taking it down from 28 to 27.9, I believe it is.

I hope that by the time the vote will actually be required we will have resolved this particular question. If we do not, I say and I pledge to those involved on both sides of the aisle that

we will do everything we can between now and conference to ensure that we have an offset that is consistent with the programs that the various Members are interested in protecting but, most importantly, addresses this situation.

The bottom line is that the investigative unit in the Department of Agriculture, unbeknownst to the farmers who were affected by the discrimination, was abolished 13 years ago, and they were relying on that. The Department of Agriculture says they need this particular remedy to solve the problem.

We will work with the committee and work with the conferees, if necessary, if we can't come up with the right offset. But I hope that this can be accepted, and if it is not, I hope that we get a vote on it—a very positive vote on it. We will certainly work hard to make sure that we have the appropriate offset at the appropriate time.

Thank you, Mr. President.

Mr. COCHRAN. Mr. President, I am happy to hear the remarks of the distinguished Senator from Virginia, and I am encouraged by his attitude to try to work this out so that we will not have to prolong the time of Senators this morning on a rollcall vote if it is not necessary. We think that this is a matter of importance as well, and we hope that adequate funds can be made available so that there can be in the office of civil rights in the Department of Agriculture funds needed to carry on this important work.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 972, AS MODIFIED

Mr. WELLSTONE. I have just been conferring with my colleagues from Kansas and Arkansas. I ask unanimous consent that I be able to modify my amendment that the offset be from travel and administrative costs within the Department of Agriculture.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. I have no objection.

Mr. WELLSTONE. I thank the Senator.

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

Will the Senator send the modification to the desk.

The amendment is so modified.

The amendment (No. 972), as modified, is as follows:

On page 47, line 6, strike ''$7,769,066,000'' and insert ''$7,774,066,000''.

On page 47, line 13, insert after ''claims'' the following: '': *Provided further*, That not less than $5,000,000 shall be available for outreach and startup in accordance with section 4(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(f))''.

On page 66, between lines 12 and 13, insert the following:

SEC. 728. OUTREACH AND STARTUP FOR THE SCHOOL BREAKFAST PROGRAM.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by adding at the end the following:

''(f) OUTREACH AND STARTUP.—

''(1) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE SCHOOL.—The term 'eligible school' means a school—

''(i) attended by children, a significant percentage of whom are members of low-income families;

''(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

''(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

''(B) SERVICE INSTITUTION.—The term 'service institution' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)).

''(C) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—The term 'summer food service program for children' means a program authorized by section 13 of the National School Lunch Act (42 U.S.C. 1761).

''(2) PAYMENTS.—The Secretary shall make payments on a competitive basis and in the following order of priority (subject to the other provisions of this subsection), to—

''(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

''(i) initiating a school breakfast program under this section; or

''(ii) expanding a school breakfast program; and

''(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

''(i) initiating a summer food service program for children; or

''(ii) expanding a summer food service program for children.

''(3) PAYMENTS ADDITIONAL.—Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) of this section and section 13 of the National School Lunch Act (42 U.S.C. 1761).

''(4) STATE PLAN.—To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to initiate or expand the programs.

''(5) SCHOOL BREAKFAST PROGRAM PREFERENCES.—In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

''(A) have in effect a State law that requires the expansion of the programs during the year,

''(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

''(C) do not have a school breakfast program available to a large number of low-income children in the State; or

''(D) serve an unmet need among low-income children, as determined by the Secretary.

''(6) SUMMER FOOD SERVICE PROGRAM PREFERENCES.—In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

''(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

''(ii) that do not have summer food service program for children available to a large number of low-income children in the State; and

''(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

''(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

''(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

''(7) RECOVERY AND REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

''(8) ANNUAL APPLICATION.—The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

''(9) GREATEST NEED.—Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a school breakfast program or a summer food service program for children, respectively.

''(10) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.''.

At the end of the bill, insert the following new section:

SEC. . The Secretary shall reduce funding for travel and office expenses within the Department of Agriculture sufficient to reduce spending in terms of budget authority and budget outlays by an amount sufficient to fully cover the costs of the outreach and startup grants for the School Breakfast Program.

The PRESIDING OFFICER. The question now is on agreeing to the motion to table the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote ''nay.''

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

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—54

Abraham	Bond	Coats
Allard	Brownback	Cochran
Ashcroft	Burns	Collins
Bennett	Campbell	Coverdell
Biden	Chafee	Craig

Domenici	Hutchinson	Roberts
Enzi	Hutchison	Roth
Faircloth	Inhofe	Santorum
Frist	Johnson	Sessions
Glenn	Kempthorne	Shelby
Gorton	Kyl	Smith (NH)
Gramm	Lott	Smith (OR)
Grams	Lugar	Snowe
Grassley	Mack	Stevens
Gregg	McCain	Thomas
Hagel	McConnell	Thompson
Hatch	Murkowski	Thurmond
Helms	Nickles	Warner

NAYS—45

Akaka	Durbin	Levin
Baucus	Feingold	Lieberman
Bingaman	Feinstein	Mikulski
Boxer	Ford	Moseley-Braun
Breaux	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Hollings	Reed
Byrd	Inouye	Reid
Cleland	Jeffords	Robb
Conrad	Kerrey	Rockefeller
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Specter
DeWine	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden

NOT VOTING—1

Kennedy

The motion to lay on the table the amendment (No. 972) was agreed to.

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

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi will be recognized. Prior to the Senator speaking, however, the Senate will come to order.

Mr. STEVENS. Mr. President, we do not have order.

The PRESIDING OFFICER. The Senator from Alaska is correct.

The Senator from Mississippi is recognized.

AMENDMENT NO. 977

(Purpose: To provide additional funding for the Outreach Program for Socially Disadvantaged Farmers and earmark funds for the civil rights investigative unit)

Mr. COCHRAN. Mr. President, under the order, there is an opportunity for the offering of a Robb amendment on farmers civil rights. We have now worked out an alternative to the amendment that was first presented. I will yield the floor to the Senator from Virginia to describe his amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. ROBB] proposes an amendment numbered 977.

Mr. ROBB. 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 7, line 3, strike ''$24,948,000'' and insert in lieu thereof ''$26,948,000''.

On page 7, line 16, before the period, insert the following: ': *Provided further,* That of the total amount appropriated, not less than $13,774,000 shall be made available for civil rights enforcement, of which up to $3,000,000 shall be provided to establish an investigative unit within the Office of Civil Rights''.

On page 34, line 6, strike ''$47,700,000'' and insert in lieu thereof ''$44,700,000''.

On page 35, line 1, strike ''$3,000,000'' and insert in lieu thereof ''$4,000,000''.

Mr. ROBB. Mr. President, I rise today to offer an amendment to the Agriculture appropriations bill that will provide USDA with the resources to reestablish the Department's investigative unit and to improve outreach efforts, ensuring equal access for all farmers in USDA programs. This amendment will allow the Department of Agriculture to resolve the backlog of complaints made by farmers who have suffered racial discrimination at the hands of USDA, and will provide the Department with the resources necessary to eradicate discrimination and improve small and minority farmers' participation in agricultural programs.

Mr. President, discrimination of any kind is offensive. But it is even more repugnant when it is practiced by people within the Federal Government—the very body that is supposed to come to the aid of the disadvantaged and the dispossessed. Sadly, Mr. President, the Department of Agriculture has had a long history of discrimination against minority and disadvantaged farmers, as well as minority and women employees.

Mr. President, for too long serving the needs of small and disadvantaged farmers has clearly not been a priority for USDA, and until recently the Department had not supported any coordinated effort to address this problem. In fact, despite decades of documented discrimination in program delivery and employment, USDA acknowledges today they have a backlog of nearly 800 racial discrimination complaints by farmers, some of which have been pending for over 7 years. Even Agriculture Secretary Dan Glickman admits that for ''far too long USDA has turned a blind eye to serious, pervasive problems with [the] civil rights system.'' Fortunately, Secretary Glickman is committed to fixing this long-standing problem, but he needs the tools to accomplish the task.

Mr. President, I have discovered that although studies, reports, and task forces from 1965 to 1997 have all documented discrimination and mistreatment of minority and socially disadvantaged customers, as well as agency employees, many do not know the extent of these long-standing problems plaguing the Department.

The reality is black farmers in the United States are dwindling at three times the rate of farmers nationwide—nearly to the point of extinction.

In December 1996, after a group of black farmers demonstrated outside the White House calling for fair treatment in agricultural lending programs, Secretary Glickman promptly called for a national forum, and appointed a Civil Rights Action Team to conduct a thorough audit of USDA civil rights issues inside and outside the department.

Within 90 days, the Civil Rights Action Team published a 121-page report confirming not only that small and minority farmers had often not been served at all, but in many cases the service provided by USDA appeared to be detrimental to their survival. Minority farmers have lost significant amounts of land and potential farm income as a result of discrimination by USDA agencies.

Secretary Glickman came to the Capitol just last week and addressed the House Agriculture Committee on racial discrimination. The Secretary admitted that his Department has ''a long history of both discrimination and perceptions of unfairness that go back literally to the middle of the 19th century.'' The Secretary acknowledged that USDA does not fully practice what they preach, and during field hearings he had spoken to people who had lost their farms and lost their family land, as he said, ''not because of a bad crop, not because of a flood, but because of the color of their skin.'' The Secretary went on to state his desire to close this chapter of USDA's history and stated his goal is ''to get USDA out from under the past and have it emerge in the 21st century as the Federal civil rights leader.''

I commend the Secretary for his leadership in candidly and openly addressing an issue that for too long has plagued the U.S. Department of Agriculture. I am convinced that his commitment to eradicating discrimination at USDA is genuine, but before we can solve the problem prospectively, we have to focus on the problem at hand, the nearly 800 pending complaints.

I initially intended to offer an amendment to the Agricultural appropriations bill that would give USDA the necessary authority and resources to eliminate any legal impediments and expedite the settlement of the nearly 800 pending discrimination complaints by farmers against the Department of Agriculture.

After speaking to Secretary Glickman on Monday, the Secretary indicated that he intends to settle claims out of the Judgment Fund and that he does not view the identification of a funding source as an impediment to entering into appropriate settlements. Because he is persuaded that existing mechanisms can be used to provide appropriate remedies to those aggrieved, my original amendment, at this time, will not be necessary.

The Secretary did alert me to two areas where he urgently needs additional funds, however. These two areas are directly related to resolving the current backlog of racial discrimination complaints by farmers, and my current amendment addresses this need.

In 1983, the civil rights investigative unit at USDA was simply abolished.

For 14 years, farmers were led to believe their cases were being investigated when in truth they were not. As a result, determinations were being made on some cases based on preliminary findings often compiled by the person accused of discrimination and the backlog of cases has grown to 798 complaints.

Without investigation, virtually none of the complaints can now be settled. That's why the Secretary needs to reestablish the investigative unit to finally resolve the longstanding problem plaguing the Department of Agriculture. The Secretary's goal is to establish a 34-person investigative unit to address the backlog by July 1998 and to ensure timely resolution of all future complaints, and my current amendment provides the Secretary with $2 million for that purpose.

Mr. President, the process for resolving complaints has failed our Nation's farmers. Today, we have to give the Secretary the necessary resources so that he may back up his sympathetic words with action. We have to begin investigating these complaints so the farmers' cases, some over 7 years old, can finally be settled.

Mr. President, the Secretary has also indicated that the funding level currently in the Agriculture appropriations bill for the Outreach for Socially Disadvantaged Farmers and Ranchers Program is insufficient. My new amendment provides USDA with an additional $1 million to improve USDA outreach efforts. The Department acknowledges that poor outreach efforts are central to the USDA's failure to meet the needs of minority farmers. Increased funding, as well as improved targeting, will improve minority participation in USDA programs and will demonstrate the Department's commitment to serving their needs.

Virginia farmers have told me the importance of this outreach effort and I agree, equal program access for all farmers is crucial.

Before President Clinton can lead this country in a discussion about race relations, we must first confront the discrimination within our Federal Government. We must resolve the underlying civil rights problems at USDA to make the system work for both customers and employees. Congress can help those individuals at the U.S. Department of Agriculture actually interested in improving USDA's ability to serve agriculture and our Nation with the necessary resources to provide appropriate remedies for those aggrieved. For it is only after USDA makes amends for its past injustices that they can face the bigger challenge of eradicating discrimination at all levels within the Department of Agriculture.

Mr. President, if reluctance to resolve these longstanding issues continues much longer, then the problem may well sadly resolve itself. Without immediate action we could lose all of our minority farmers and an important part of our heritage forever. I would certainly hope that no Member of Congress would want to see that happen.

Mr. President, very briefly, I thank the chairman and the ranking member of the Agriculture Committee. A number of Members in agricultural States presented difficulties with the original proposed solution, none more important than the current Presiding Officer who apprised this Senator of concerns about one of the original offsets. We have now worked it out, where there is agreement on both sides. It is supported by the administration.

Basically, this reestablishes the investigative unit for the Department of Agriculture.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from West Virginia is precisely correct.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Thank you, Mr. President. As I say, this amendment will reestablish the investigative unit for the Office of Civil Rights. It will provide the additional money necessary for the outreach for minority and socially disadvantaged farmers. This is precisely what the Secretary of Agriculture said is necessary to solve a vexing problem that has been with the department for decades. Literally it has been documented time and time again.

I thank all Senators who worked on finding the appropriate offsets so we could provide the funding that the department has requested. I believe it has been cleared and approved on both sides.

With that information, I urge adoption of the amendment at this time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 977) was agreed to.

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

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

The motion to lay on the table was agreed to.

PEANUT PROGRAM

Mr. SHELBY. Mr. President, I rise today to express my continued support for the peanut program.

Mr. President, just last year the Senate completed a comprehensive review of all federally sponsored farm programs. This review prompted extensive debate in this chamber—debate in which divergent positions were articulated and competing interests were expounded. Ultimately, after much hard work, consideration and compromise, the Senate produced the landmark 1996 farm bill.

The farm bill sets Federal farm policy through the year 2002 and contains fundamental changes which have impacted every facet of Federal involvement in farm programs—from crop subsidies, conservation practices and rural subsidies to credit, research and trade policies. Included in this legislation were provisions that specifically covered the peanut program, provisions which made considerable changes to the program.

This year, despite the significant work that went into putting the farm bill together, despite the fact that the farm bill reforms of the peanut program have only been on the books for little over a year and have only affected one crop, and despite the fact that thousands of farmers have made significant financial and farming commitments through the year 2002 in reliance upon the provisions of the farm bill, some Members have discussed undoing the work of the sponsors of the farm bill and dismantling the peanut program.

Mr. President, I feel any attempt to change the peanut program is unnecessary, misguided, and would ultimately destroy American peanut farming and American peanut farmers.

Mr. President, the peanut program helps support more than 16,000 family farmers, many of whom live in some of the poorest, most agriculturally dependent areas in the United States. Mr. President, the peanut program provides American consumers with a steady and large supply of safe and cheap peanuts and peanut products.

Mr. President, the peanut program works for American peanut farmers and American consumers. It has been significantly revised in recent years and these revisions will only serve to enhance the program if allowed to stand. We must allow farmers who have relied on the farm bill an opportunity to work within the new peanut program.

Mr. BYRD. Mr. President, I congratulate Senator COCHRAN, the chairman of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Subcommittee, and Senator BUMPERS, the ranking member, for bringing to the Senate Floor the Fiscal Year 1998 Appropriations Bill. This bill will provide funding for all activities of the Department of Agriculture, except those of the Forest Service, and the functions of the Food and Drug Administration, the Farm Credit Administration, and the Commodity Futures Trading Commission.

This bill, as reported by the Appropriations Committee, provides $50.7 billion in total obligational authority for the coming year. That is nearly $1.1 billion more than the bill reported by the House Appropriations Committee, and $1.6 billion below the President's request. It is within the subcommittee's 602(b) allocation.

This bill is $3.2 billion below last year's level, due largely to reductions in mandatory accounts. The subcommittee's discretionary allocation in budget authority was increased from $13.1 billion in fiscal year 1997 to $13.8 billion in this bill.

This bill provides funding for programs vitally important to all Americans. These include agricultural research necessary to keep our farmers competitive in the global marketplace, conservation programs to protect the environment and productivity of the land, rural development programs to serve the millions of Americans who live outside our cities, and programs to promote U.S. agricultural products throughout the world. Funding in this bill for the Food Safety Inspection Service and the Food and Drug Administration ensures we will have safe food and blood supplies and that pharmaceuticals and medical devices will be safe and effective.

I would like to specifically remark on the inclusion of funding for the second year of the Potomac Headwaters Land Treatment Watershed Project, a program to protect the Potomac River and its headwater feeder streams from a possible harmful accumulation of agricultural pollution. I am aware that some Members of Congress have expressed concern about the June 1, 1997, Washington Post article and an American Rivers' report that, in part, attributed pollution in the Potomac to West Virginia poultry production. These reports raised concerns but were one-sided in that they did not address the responsible actions already underway to mitigate possible problems that can be associated with poultry waste. Funding in this bill will continue the exemplary efforts by public officials and West Virginia small family farmers to balance economic interest with environmental goals by providing Federal money for technical assistance and loans to help family farmers design and institute the type of measures necessary to prevent pollution in rivers and streams. The program achieves benefits for a broad base of interests, extending from my beautiful state to the Chesapeake Bay, and is an example of government at its best. I thank the members of the committee for recognizing the widespread concerns held by the millions of people who draw their drinking water from the Potomac, and for taking action to alleviate these concerns.

In all this is a very good bill, and I am happy to support its passage. Again, I congratulate Senator COCHRAN and Senator BUMPERS for their hard work. I also commend the work of the subcommittee staff: Galen Fountain and Carole Geagley, for the minority, and Rebecca Davies, Martha Scott Poindexter, and Rachelle Graves, for the majority.

Mr. GRAHAM. Mr. President, before we complete action on the Agriculture and Related Agencies appropriations bill, I wanted to compliment the chairman, Senator COCHRAN, and the ranking member, Senator BUMPERS, for their very hard work and very able leadership.

All the Members know of the many demands placed on the subcommittee to fund many worthwhile projects. We also know that the discretionary spending available to the Agriculture Subcommittee has been reduced substantially over the last several years. This very limited funding makes it difficult to fund all the many excellent proposals that have come to the subcommittee for consideration.

Mr. President, while I understand the limitations of the subcommittee to fund all good projects, I would be less than frank if I did not mention my disappointment with a number of items that were left out of this bill. One of those projects not funded by this bill is an Extension Service training project to help bring behavioral and mental health services to rural areas.

As the Members know, the Extension Service is a long and well established institution that exists across the country in almost every county in America. In the minds of most people, the Extension Service and the Extension agents are focused on agricultural and farm issues. While this impression is true the facts also reveal that the Extension Service is called on more and more to help meet family, health, and social service needs of our rural residents. The array of services offered by the Extension Service is established at the State level by State priorities. In my State, and I am sure in other States, as well, the Extension Service is doing a great job in meeting rural needs for a broad array of services.

In Florida, for example, following Hurricane Andrew, our Extension agents were trained to provide threshold counseling services to rural residents who were under severe emotional stress following the storm. The agents were trained to identify problems, provide initial counseling and to refer severe cases to appropriate professionals. This training was provided by the University of Florida and the program received a USDA award. The University of Florida was recently invited to North Dakota to train Extension agents following the floods. Initial reports from the Director of the Extension Service in North Dakota is that the program ''exceeded expectations''.

Mr. President, for a very small amount of money this bill could have created a small program or center to be a national resource for the Extension Service. This center would train the agents from the various States to be better able to provide the counseling services that they are more and more being called on to provide. The demand for these services is due in large part to the lack of service providers in rural areas.

Mr. President, it is my hope and expectation that the Department will look at this proposal very carefully and reprogram some funds or include it in the Department's next budget request. It is a program that has been proven to work. It is a program that meets a very large need in our rural areas. In the process of this review I would also expect that the Department meet with the appropriate officials at the University of Florida who have a track record in this area.

FOOD AND DRUG ADMINISTRATION PROVISIONS

Mr. HATCH. Mr. President, there is growing awareness of the huge potential savings to consumers and taxpayers from the prompt approval of generic drugs, a fact which was one of the reasons that Congress passed the Drug Price Competition and Patent Term Restoration Act of 1984. That statute created a legal structure that benefits both consumers and the generic industry while providing strong incentives for continued investment by the brand companies in research and development.

Unfortunately, the success of the act has been limited by the inability of the Food and Drug Administration to comply with its statutory mandate to approve generic drug applications within 180 days. In fact, generic drug approvals now are taking an average of approximately 23 months, nearly four times the statutory requirement, and the number of personnel at the agency responsible for this mission has been significantly reduced. This latter fact is especially troubling since the personnel levels in several administrative areas have grown significantly.

The Appropriations Committee has taken action to address this failure. Last year, the committee directed the FDA to expend sufficient resources to ensure compliance with its statutory mandates. This year, the committee has further directed the agency to provide the relevant congressional committees 90 days after the beginning of the fiscal year with a plan that explains how the agency will meet the statutory review time for generic drug applications.

The House Appropriations Committee, apparently losing patience with the FDA, included an extra million dollars in the fiscal 1998 bill for the express purpose of increasing the speed of generic drug reviews. The committee report noted that health care costs have increased to extraordinary levels and that the timely approval of generic drugs could save billions of dollars. The committee also reports that FDA costs related to administrative functions were excessive, pointing out that expenditures for the Office of the Commissioner in fiscal year 1997 far exceeded total expenditures for the offices of the Secretary and all the Under and Assistant Secretaries at the Department of Agriculture.

It is my strong desire that the conference will give serious consideration to the House Committee's direction of funds for generic drug approvals. It is obvious that if the FDA complies with its statutory mandates, patients will be the winners, especially in terms of the tremendous savings that consumers could reap if generic competitors are sent to market more quickly. Mr. President, this seemingly small and perhaps even insignificant corner of the Federal budget has the potential to help every family in our country by reducing the cost that we all must pay

for life-saving pharmaceutical products, and I hope the conferees will give it serious weight.

In closing, I want to commend you, Chairman COCHRAN, for the splendid job you have done in crafting this legislation, and pay particular commendation to Rebecca Davies of your staff, who is indeed such an asset to the committee.

NORTHEAST DAIRY COMPACT

Mr. LEAHY. Mr. President, I want to again focus as I did yesterday on the study of the Northeast dairy compact that will be contained in the appropriations bill as it winds its way through conference with the House and then comes back to the Senate.

Under the Senate proposal, the Director of OMB will do a study on dairy, retail store, wholesale, and processor pricing in New England.

As I mentioned yesterday, many Senators are very concerned that when the price that farmers get for their milk drops that the retail price—the consumer price—often does not drop. Study after study shows this result.

Wholesale or retail stores appear to be simply making more profits at the expense of farmers. This is one of the issues OMB should examine.

But it is very important that OMB not just give us numbers. It will not be helpful to Congress, and will be misleading, if OMB just says, for example, that the average price of milk in stores during the first 6 months of the compact was a certain amount higher than some earlier amount.

It will not assist decision makers at all if OMB then simply multiplies that difference by the number of gallons bought by persons on Food Stamps and concludes that the product of the multiplication is the ''harm'' to the food stamp program.

It is important for OMB to put the information in context or they shouldn't even do the study. I do not want information that I cannot use in deciding on legislative options.

To continue with the food stamp example, if the cuts in the welfare reform bill enacted last year are 10 times, or 20 times, or 30 times more—not 30 percent more, but 30 times more—than any impact of the compact then perhaps the best legislative solution is to reduce the welfare reform cuts by one-thirtieth rather than dealing with the compact since the compact has positive benefits.

It will be extremely important, from a policy perspective, to make these types of comparisons. Also note, I do not think that any increase that shows up in retail stores is justifiable under the compact after such a huge decrease in farm prices. But, if OMB assumes some we should know if the national system of milk marketing orders, or if store profits, dwarfs the impact of the compact. This will help us with policy decisions.

A 1991 study by GAO showed a huge variation in regional pricing of milk in retail stores. Just those variations may far exceed any impact of the compact. We need OMB to look at these issues.

Without this more detailed analysis we will only be able to announce numbers on the Senate floor to support positions, but we will not be able to use the OMB study to come to good policy conclusions.

In addition, the purchase of fluid milk represents only a small fraction of total food expenditures. One study showed that fluid milk represents 3 percent of total food expenditures of the typical family. If use of discount coupons for a variety of foods, or the purchase of store brands, or shopping at less expensive stores dwarf the impacts of the compact, that should also be analyzed.

It makes a big difference if the impact of the compact is equivalent to one-fourth of 1 percent of a family's food purchasing power versus, let's say, 5 percent of the family's food purchasing power.

I also want OMB to look at the drop in food purchasing power, adjusted for inflation, that will be caused by full implementation of the welfare reform bill for our lower income households. Food stamp families live below the poverty level and these comparisons will be helpful for possible legislative solutions.

You should also look at whether some stores price dairy products to increase their profits when they already have a reasonable return on milk. Are the profit margins on dairy products higher, or lower, than for other items? Do the profit margins far exceed any potential impact of the compact? Or are they less?

It will be interesting and very helpful to see how milk prices change during the entire duration of the compact. There are news reports that some retailers are taking unfair advantage of the compact. If this is accurate, these effects should be temporary as the normal competitive forces take over. It is important to note that economists who have analyzed the compact determined that over time it could lower consumer prices by stabilizing the price that stores pay for milk.

Many reports show that stores build in an extra margin to protect against increases in milk costs since it is costly to routinely change prices. If no extra margins are required it is very likely that competitive forces would lead stores to reduce those extra margins.

Researchers such as Henry Kinnucan, Olan Forker, Andrew Novakovic, Brandon Hansen, William Hahn and others have looked at how price volatility at the wholesale level can result in increases in consumer prices for milk higher than would have occurred had wholesale prices been stable. In the New England area I am told some stores sell gallons of milk for $1.99 and some sell them for $3.29—that is a large difference and none of the difference goes to farmers.

OMB should look at that difference to help us with our policy decisions. That could, indeed, be a major contribution to better understanding the impact of the compact, or milk marketing orders, or retail store pricing—how can such a difference exist?

It is my view that the compact over time can reduce that need for extra margins since stores will not have to build in that cushion to protect against feared higher prices. And many economic studies support that point. My view is that no increase should have occurred especially after the major drop in milk prices to farmers starting late last year. I want to touch on one more issue. The statutory language talks of the direct and indirect effects of the compact.

I am a strong supporter of the compact and believe it has very positive indirect effects in addition to stabilizing the price of milk. The Secretary of Agriculture has also addressed these positive indirect effects.

I have detailed these effects in correspondence to the Secretary of Agriculture and will provide these to OMB at a later date.

I want to mention again a point I raised yesterday. The prices farmers get for their milk dropped substantially last November nationwide. They dropped quickly, and have stayed low for months.

It amounted to a 35-cent to 40-cent drop on a per gallon basis. Yet retail stores did not lower their prices to consumers except by a few pennies. This pricing practice for milk is well documented in the research and in the press.

Does this failure to drop prices by 35 cents, or even just 25 cents, a gallon have a major impact on consumers?

Will it be more than any hypothetical impact on consumers of the compact? In many areas of the country there is now a $1.40/gallon difference between the raw milk price—which farmers get—and the retail price of milk. Is that justified?

OMB should look at what that difference represents in terms of profits for transporters, stores, and wholesalers.

The Wall Street Journal pointed out that the value of milk for farmers plunged by 22 percent since October 1996—but that no comparative decline occurred in the price of milk. Another point I made yesterday was that the Wall Street Journal and the New York Times have exposed retail store overcharging for milk. This should be examined.

Farmers got one-fifth less for their milk, and someone, I presume, made a bundle. Some studies show that the dairy case is now the most profitable part of a supermarket. This should be carefully examined since most families consider milk a necessity.

Also, the time period that OMB examines may completely determine their conclusions. Something this important should not be determined by the luck of the draw.

In this regard, under the compact, farmers in New England are getting less for their milk than the average price they got for their milk last year.

It will be important for OMB to look at all the factors which affect the price of fluid milk including farm prices, labor, transportation, milk marketing orders, retail profits, co-op returns, marketing strategies, feed costs, farm expenses, and wholesaler profits.

I want to also quote from a letter that I sent to the Secretary regarding the compact relating to the indirect benefits of the compact.

You should note that a lack of farm income resulting from low dairy prices is cited as the major reason dairy farmers leave farming in New England. Production costs in New England are much higher than in other areas of the Nation while the value of the land for nonfarm purposes is often greater than its value as farmland.

This is very different as compared to vast areas of the Midwest and Upper Midwest where land is sometimes worth little except for its value as farmland. As the Vermont Economy Newsletter reported in July 1994:

> In the all important dairy industry, the decrease in farm income has come from a continuation of the long term trends the industry has been facing. Should these trends persist, and there is every expectation they will, Vermont will continue to see dairy farms disappearing from its landscape during the 1990's.

One of the consequences of the exit of dairy farmers in New England is that land is released from agriculture. Given the close proximity to population centers and recreational areas in New England, good land is in high demand, and as a result there is often a strong incentive to develop the land.

What are the consequences of land being converted from farm to nonfarm uses?

One consequence is that the rural heritage and aesthetic qualities of the working landscape are lost forever. The impact of this loss would be devastating to Vermont and to much of New England. The tourists from some of America's largest urban centers are drawn to rural New England because of its beauty, its farms and valleys, and picturesque roads.

Strip malls and condominiums do not have the same appeal to vacationers.

The Vermont Partnership for Economic Progress, noted in its 1993 report, ''Plan for a Decade of Progress: Actions for Vermont's Economy,''

> There are many issues that will influence the [tourism] industry's future in Vermont . . . including our state's ability to preserve its landscape.

The report went on to list among its primary goals: Maintain the existing amount of land in agriculture and related uses; and preserve the family farm as part of our economic base and as an integral factor in Vermont's quality of life. This is taken from ''A Plan for a Decade of Progress.''

The priority of these goals show that preserving farmland and a viable agriculture industry are important for the overall economic health of the region from Maine, to rural parts of Connecticut, Rhode Island, and Massachusetts, to Vermont and New Hampshire.

Other consequences of farm losses are equally destructive. The American Farmland Trust has completed cost of community services studies in four New England towns, one in Connecticut and three in Massachusetts.

These studies show the cost of providing community services for farmland and developed land. It is true that developed land brings in more tax revenues than farmland, especially when farmland is assessed at its agricultural value, as it is in most New England States. Developed land, however, requires far more in the way of services than the tax revenues it returns to the treasuries of municipalities.

For example, residential land in these four New England towns required $1.11 in services for every $1 in tax revenue generated while the farmland required only $0.34 of services for every $1 of revenue it generated. This demonstrates the major impact that losing dairy farmland has on rural New England.

National Geographic recently detailed the risk of economic death by strip malling otherwise tourist-drawing farmland. New England should be allowed to try to reverse this trend—especially in ways that help neighboring States such as under the compact.

The American Farmland Trust Study pointed out that agricultural land actually enhanced the value of surrounding lands in addition to sustaining important economic uses.

Farming is a cost effective, private way to protect open space and the quality of life. It also supports a profusion of other interests, including: hunting, fishing, recreation, tourism, historic preservation, floodplain, and wetland protection. ''Does Farmland Protection Pay?'' is the name of that study.

Keeping land in agriculture and protecting it from development is vitally important for all of New England which is one reason all six New England States have funded or authorized purchase of agricultural conservation easement programs to help protect farmland permanently. Unlike much of the Midwest, for example, once farms go out of business, the land is converted and is lost forever for agricultural purposes.

Other economic uses, from condominiums and second homes for retired or professional people from New York, Boston, or Philadelphia to shopping malls to serve them, are waiting in the wings. The pressure to develop in New England is voracious.

A 1993 report from the American Farmland Trust called ''Farming on the Edge'' showed that only 14 of the more than 67 counties in New England, were not significantly influenced by urban areas.

In fact, eight New England counties were considered to be farming areas in the greatest danger of being lost to development because of their high productivity and close proximity to urban areas. The Champlain and Hudson River Valleys were considered to be among the top 12 threatened agricultural areas in the entire country according to this study. ''Farming on the Edge'' is the name of that study.

As we go to Conference I will further explore the goals and intent behind this language.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, other amendments that were going to be offered will not be offered. The managers' package was adopted last night. The Senator from Arkansas is going to send an amendment to the desk on behalf of the Senator from New Mexico.

AMENDMENT NO. 978

(Purpose: Providing support to a Tribal College through appropriations for the Department of Agriculture for the fiscal year ending September 30, 1998, and for other purposes)

Mr. BUMPERS. Mr. President, I send an amendment to the desk on behalf of the managers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Arkansas [Mr. BUMPERS], for Mr. BINGAMAN, for himself and Mr. CAMPBELL, proposes an amendment numbered 978.

Mr. COCHRAN. 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 13, line 20, strike ''$13,619,000'' and insert ''$13,469,000''.
>
> On page 14, line 22, strike ''$10,991,000'' and insert ''$11,141,000''.

Mr. BUMPERS. This amendment would reduce the amount recommended for pesticide clearance by $150,000 and increase the Cooperative State, Education, and Extension Service research and education Federal Administration appropriation to increase the amount recommended for the geographic information system by $150,000 to include New Mexico and Colorado in this program.

Mr. COCHRAN. Mr. President, with the adoption of this amendment, it completes the managers' package. There are no other amendments in order to be offered. Indeed, we will have a vote on final passage after the adoption of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 978) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote ''aye.''

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—99

Abraham	Faircloth	Lott
Akaka	Feingold	Lugar
Allard	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Brownback	Gregg	Reed
Bryan	Hagel	Reid
Bumpers	Harkin	Robb
Burns	Hatch	Roberts
Byrd	Helms	Rockefeller
Campbell	Hollings	Roth
Chafee	Hutchinson	Santorum
Cleland	Hutchison	Sarbanes
Coats	Inhofe	Sessions
Cochran	Inouye	Shelby
Collins	Jeffords	Smith (NH)
Conrad	Johnson	Smith (OR)
Coverdell	Kempthorne	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lautenberg	Torricelli
Dorgan	Leahy	Warner
Durbin	Levin	Wellstone
Enzi	Lieberman	Wyden

NOT VOTING—1

Kennedy

The bill (S. 1033), as amended, was passed, as follows:

S. 1033

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes; namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $2,836,000: *Provided,* That not to exceed $11,000 of this amount, along with any unobligated balances of representation funds in the Foreign Agricultural Service, shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further,* That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further,* That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $5,252,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $25,000 is for employment under 5 U.S.C. 3109, $12,360,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $5,986,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $783,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $4,773,000.

CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $4,283,000: *Provided,* That the Chief Financial Officer shall actively market cross-servicing activities of the National Finance Center.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $613,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for the operation, maintenance, modification, and repair of buildings and facilities as necessary to carry out the programs of the Department, where not otherwise provided, $123,385,000: *Provided,* That in the event an agency within the Department should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account. In addition, for construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the programs of the Department, where not otherwise provided, $5,000,000, to remain available until expended; and in addition, for necessary relocation expenses of the Department's agencies, $2,700,000, to remain available until expended; making a total appropriation of $131,085,000.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $15,700,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department for Hazardous Waste Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $26,948,000, to provide for necessary expenses for management support services to offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558: *Provided further,* That of the total amount appropriated, not less than $13,774,000 shall be made available for civil rights enforcement, of which up to $3,000,000 shall be provided to establish an investigative unit within the Office of Civil Rights.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, including programs involving intergovernmental affairs

and liaison within the executive branch, $3,668,000: *Provided*, That no other funds appropriated to the Department in this Act shall be available to the Department for support of activities of congressional relations: *Provided further*, That not less than $2,241,000 shall be transferred to agencies funded in this Act to maintain personnel at the agency level.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $8,138,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $63,728,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, as amended, including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $125,000, for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98: *Provided*, That funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating agency, as an equitable share from the forfeiture of property in investigations in which the Office of the Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account for law enforcement activities authorized under the Inspector General Act of 1978, as amended, to remain available until expended.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $29,098,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $540,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $53,109,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture notwithstanding 13 U.S.C. 142(a–b), as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $118,048,000, of which up to $36,327,000 shall be available until expended for the Census of Agriculture: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $738,000,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $250,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $69,100,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $168,734,000 to carry into effect the provisions of the Hatch Act (7 U.S.C. 361a–361i); $20,497,000 for grants for cooperative forestry research (16 U.S.C. 582a–582a7); $27,735,000 for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222); $47,525,000 for special grants for agricultural research (7 U.S.C. 450i(c)); $13,469,000 for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)); $100,000,000 for competitive research grants (7 U.S.C. 450i(b)); $4,775,000 for the support of animal health and disease programs (7 U.S.C. 3195); $550,000 for supplemental and alternative crops and products (7 U.S.C. 3319d); $600,000 for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $3,000,000 for higher education graduate fellowships grants (7 U.S.C. 3152(b)(6)), to remain available until expended (7 U.S.C. 2209b); $4,350,000 for higher education challenge grants (7 U.S.C. 3152(b)(1)); $1,000,000 for a higher education minority scholars program (7 U.S.C. 3152(b)(5)), to remain available until expended (7 U.S.C. 2209b); $1,500,000 for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241); $4,000,000 for aquaculture grants (7 U.S.C. 3322); $8,000,000 for sustainable agriculture research and education (7 U.S.C. 5811); $9,200,000 for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, to remain available until expended (7 U.S.C. 2209b); $1,450,000 for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382; and $11,141,000 for necessary expenses of Research and Education Activities, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $427,526,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For establishment of a Native American institutions endowment fund, as authorized by Public Law 103–382 (7 U.S.C. 301 note), $4,600,000.

EXTENSION ACTIVITIES

Payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa: For payments for cooperative extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $268,493,000; $2,000,000 for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)); payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,695,000; payments for the pest management program under section 3(d) of the Act, $10,783,000; payments for the farm safety program under section 3(d) of the Act, $2,855,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,214,000; payments to upgrade 1890

land-grant college research, extension, and teaching facilities as authorized by section 1447 of Public Law 95–113, as amended (7 U.S.C. 3222b), $7,549,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $908,000; payments for a groundwater quality program under section 3(d) of the Act, $9,061,000; payments for the agricultural telecommunications program, as authorized by Public Law 101–624 (7 U.S.C. 5926), $1,167,000; payments for youth-at-risk programs under section 3(d) of the Act, $9,554,000; payments for a food safety program under section 3(d) of the Act, $2,365,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $3,192,000; payments for Indian reservation agents under section 3(d) of the Act, $1,672,000; payments for sustainable agriculture programs under section 3(d) of the Act, $3,309,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,628,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $25,090,000; and for Federal administration and coordination including administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301 note), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $10,787,000; in all, $423,322,000: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Agricultural Marketing Service, and the Grain Inspection, Packers and Stockyards Administration, $618,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $437,183,000, of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further,* That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 1998 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Of the total amount available under this heading in fiscal year 1998, $100,000,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $4,200,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, $49,627,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $59,521,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided,* That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,690,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,200,000.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $23,583,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $43,092,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided,* That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Appropriations Committees.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $446,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, the Poultry Products Inspection Act, as amended, and the Egg Products Inspection Act, as amended, $590,614,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102–237: *Provided,* That this appropriation shall not be available for shell egg surveillance

under section 5(d) of the Egg Products Inspection Act (21 U.S.C. 1034(d)): *Provided further,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, Foreign Agricultural Service, the Office of Risk Management, and the Commodity Credit Corporation, $572,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $700,659,000: *Provided,* That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further,* That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 shall be available for employment under 5 U.S.C. 3109.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $2,000,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $550,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $460,000,000 of which $400,000,000 shall be for guaranteed loans; operating loans, $2,395,000,000, of which $1,700,000,000 shall be for unsubsidized guaranteed loans and $200,000,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $34,653,000; and for credit sales of acquired property, $25,000,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $21,380,000, of which $15,440,000 shall be for guaranteed loans; operating loans, $71,394,500, of which $19,890,000 shall be for unsubsidized guaranteed loans and $19,280,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $132,000; for emergency insured loans, $6,008,000 to meet the needs resulting from natural disasters; for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $249,500; and for credit sales of acquired property, $3,255,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $219,861,000, of which $209,861,000 shall be transferred to and merged with the ''Farm Service Agency, Salaries and Expenses'' account.

RISK MANAGEMENT AGENCY

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933), $64,000,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i): *Provided further,* That, of the amount made available under this sentence, $4,000,000 shall be available for obligation only after the Administrator of the Risk Management Agency issues and begins to implement the plan to reduce administrative and operating costs of approved insurance providers required under section 508(k)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(7)). In addition, for sales commissions of agents, as authorized by section 516 (7 U.S.C. 1516), $202,571,000.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments, as authorized subsections (a)(2), (b)(2), and (c) of section 516 of the Federal Crop Insurance Act, as amended, such sums as may be necessary to remain available until expended (7 U.S.C. 2209b).

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1998, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $783,507,000 in the President's fiscal year 1998 Budget Request (H. Doc. 105–3)), but not to exceed $783,507,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a–11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1998, the Commodity Credit Corporation shall not expend more than $5,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided,* That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation in this Act.

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $693,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); administration of research, investigation, and surveys of watersheds of rivers and other waterways, for small watershed investigations and planning, and for technical assistance to carry out preventive measures, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C.1001–1009), and the Flood Control Act (33 U.S.C. 701); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein, for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $729,880,000, to remain available until expended (7 U.S.C. 2209b), of which not less than $5,835,000 is for snow survey and water forecasting and not less than $8,825,000 is for operation and establishment of the plant materials centers: *Provided,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further,* That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That this appropriation shall

be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c)): *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2): *Provided further,* That not less than $80,138,000 shall be available to provide technical assistance for water resources assistance (Public Law–534 and Public Law–566).

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $40,000,000, to remain available until expended (7 U.S.C. 2209b) (of which up to $15,000,000 may be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented: *Provided,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607) and, the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $44,700,000, to remain available until expended (7 U.S.C. 2209): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Assistance Act of 1978 (16 U.S.C. 2101), as amended by the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127), including technical assistance and related expenses, $6,325,000, to remain available until expended, as authorized by the Act.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $4,000,000, to remain available until expended.

TITLE III

RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $588,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, and 1932, except for section 381G of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 2009f), $644,259,000, to remain available until expended, of which $27,562,000 shall be for rural community programs described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act, as amended; of which $568,304,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act; and of which $48,393,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided,* That section 381E(d)(3)(B) of such Act is amended by inserting after the phrase, ''business and industry'', the words, ''direct and'': *Provided further,* That of the amount appropriated for rural utilities programs, not to exceed $24,500,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; not to exceed $15,000,000 shall be for water systems for rural and native villages in Alaska pursuant to section 306D of such Act; not to exceed $15,000,000 shall be for technical assistance grants for rural waste systems pursuant to section 306(a)(14) of such Act; and not to exceed $5,650,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That of the total amounts appropriated, not to exceed $32,163,600 shall be available through June 30, 1998, for empowerment zones and enterprise communities, as authorized by Public Law 103–66, of which $1,614,600 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $21,952,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act; of which $8,597,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided further,* That any obligated and unobligated balances available for prior years for the ''Rural Water and Waste Disposal Grants,'' ''Rural Water and Waste Disposal Loans Program Account,'' ''Emergency Community Water Assistance Grants,'' ''Solid Waste Management Grants,'' the community facility grant program in the ''Rural Housing Assistance Program'' Account, ''Community Facility Loans Program Account,'' ''Rural Business Enterprise Grants,'' ''Rural Business and Industry Loans Program Account,'' and ''Local Technical Assistance and Planning Grants'' shall be transferred to and merged with this account.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, to be available from funds in the rural housing insurance fund, as follows: $3,300,000,000 for loans to section 502 borrowers, as determined by the Secretary, of which $2,300,000,000 shall be for unsubsidized guaranteed loans; $30,000,000 for section 504 housing repair loans; $19,700,000 for section 538 guaranteed multi-family housing loans; $15,001,000 for section 514 farm labor housing; $128,640,000 for section 515 rental housing; $600,000 for section 524 site loans; $25,004,000 for credit sales of acquired property; and $587,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $133,390,000, of which $5,290,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $10,308,000; section 538 multi-family housing guaranteed loans, $1,200,000; section 514 farm labor housing, $7,388,000; section 515 rental housing, $68,745,000; credit sales of acquired property, $3,493,000; and section 523 self-help housing land development loans, $20,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $354,785,000, which shall be transferred to and merged with the appropriation for ''Rural Housing Service, Salaries and Expenses''.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, as amended, $541,397,000; and in addition such sums as may be necessary, as authorized by section 521 of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided,* That of this amount not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further,* That agreements entered into or renewed during fiscal year 1998 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $26,000,000, to remain available until expended (7 U.S.C. 2209b).

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $1,285,000 to fund up to 50 percent of the cost of organizing, training, and equipping rural volunteer fire departments.

RURAL HOUSING ASSISTANCE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For grants and contracts for housing for domestic farm labor, very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service as authorized by 42 U.S.C. 1474, 1479(c), 1486, 1490c, 1490e, and 1490m, $45,720,000, to remain available until expended: *Provided,* That any obligated and unobligated balances available from prior

years in ''Rural Housing for Domestic Farm Labor,'' ''Supervisory and Technical Assistance Grants,'' ''Very Low-Income Housing Repair Grants,'' ''Compensation for Construction Defects,'' and ''Rural Housing Preservation Grants'' shall be transferred to and merged with this account: *Provided further,* That of the total amount appropriated, $1,200,000 shall be for empowerment zones and enterprise communities, as authorized by Public Law 103–66: *Provided further,* That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1998, they shall remain available for other authorized purposes under this head.

SALARIES AND EXPENSES

For necessary expenses of the Rural Housing Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, as amended, title V of the Housing Act of 1949, as amended, and cooperative agreements, $58,804,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of 706(a) of the Organic Act of 1944, and not to exceed $520,000 may be used for employment under 5 U.S.C. 3109.

RURAL BUSINESS-COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, $19,200,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans of $40,000,000: *Provided further,* That through June 30, 1998, of the total amount appropriated $3,618,750 shall be available for the cost of direct loans, for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993, to subsidize gross obligations for the principal amount of direct loans, $7,500,000.

In addition, for administrative expenses to carry out the direct loan programs, $3,482,000 shall be transferred to and merged with the appropriation for ''Salaries and Expenses''.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, as amended, for the purpose of promoting rural economic development and job creation projects, $12,865,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $3,076,000.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND

For necessary expenses to carry out the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901–5908), $10,000,000 is appropriated to the alternative agricultural research and commercialization corporation revolving fund.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932), $3,000,000, of which up to $1,500,000 may be available for cooperative agreements for appropriate technology transfer for rural areas program.

SALARIES AND EXPENSES

For necessary expenses of the Rural Business-Cooperative Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, as amended; section 1323 of the Food Security Act of 1985; the Cooperative Marketing Act of 1926; for activities relating to the marketing aspects of cooperatives, including economic research findings, as authorized by the Agricultural Marketing Act of 1946; for activities with institutions concerning the development and operation of agricultural cooperatives; and cooperative agreements; $25,680,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of 706(a) of the Organic Act of 1944, and not to exceed $260,000 may be used for employment under 5 U.S.C. 3109.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: 5 percent rural electrification loans, $125,000,000; 5 percent rural telecommunications loans, $52,756,000; cost of money rural telecommunications loans, $300,000,000; municipal rate rural electric loans, $500,000,000; and loans made pursuant to section 306 of that Act, rural electric, $300,000,000, and rural telecommunications, $120,000,000, to remain available until expended.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935 and 936), as follows: cost of direct loans, $11,393,000; cost of municipal rate loans, $21,100,000; cost of money rural telecommunications loans, $60,000; cost of loans guaranteed pursuant to section 306, $2,760,000: *Provided,* That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $29,982,000, which shall be transferred to and merged with the appropriation for ''Salaries and Expenses.''.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1998 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $175,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), $3,710,000.

In addition, for administrative expenses necessary to carry out the loan programs, $3,000,000.

DISTANCE LEARNING AND MEDICAL LINK PROGRAM

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., as amended, $12,030,000, to remain available until expended, to be available for loans and grants for telemedicine and distance learning services in rural areas: *Provided,* That the costs of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

SALARIES AND EXPENSES

For necessary expenses of the Rural Utilities Service, including administering the programs authorized by the Rural Electrification Act of 1936, as amended, and the Consolidated Farm and Rural Development Act, as amended, and cooperative agreements, $33,000,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of 706(a) of the Organic Act of 1944, and not to exceed $105,000 may be used for employment under 5 U.S.C. 3109.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Consumer Service, $454,000.

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1772 et seq.), except sections 17 and 21; $7,769,066,000, to remain available through September 30, 1999, of which $2,617,675,000 is hereby appropriated and $5,151,391,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That $4,124,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $3,927,600,000, to remain available through September 30, 1999, of which up to $12,000,000 may be used to carry out the farmers' market nutrition program from any funds not needed to maintain current caseload levels: *Provided,* That notwithstanding sections 17 (g), (h), and (i) of such Act, the Secretary shall adjust fiscal year 1998 State allocations to reflect food funds available to the State from fiscal year 1997 under section 17(i)(3)(A)(ii) and 17(i)(3)(D): *Provided further,* That the Secretary shall allocate funds recovered from fiscal year 1997 first to States to maintain stability funding levels, as defined by regulations promulgated under section 17(g), and then to give first priority for the allocation of any remaining funds to States whose funding is less than their fair share of funds, as defined by regulations promulgated under section 17(g): *Provided further,* That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further,* That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of the Child Nutrition Act of 1966: *Provided further,* That State agencies required to procure infant formula using a competitive bidding system may use funds appropriated by this Act to purchase infant formula under a cost containment contract entered into after September 30, 1996 only if the contract was awarded to the bidder offering the lowest net price, as defined by section 17(b)(20) of the Child Nutrition Act of 1966, unless the State agency demonstrates to the satisfaction of

the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than five percent.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $26,051,479,000, of which $1,000,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by law.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), and the Emergency Food Assistance Act of 1983, as amended, $148,600,000, to remain available through September 30, 1999: *Provided,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $141,165,000, to remain available through September 30, 1999.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $107,719,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE AND GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $128,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $136,664,000, of which $3,231,000 may be transferred from the Export Loan Program account in this Act, and $1,066,000 may be transferred from the Public Law 480 program account in this Act: *Provided,* That up to $3,000,000 shall be available in fiscal year 1999 for overseas inflation, subject to documentation by USDA of actual overseas inflation and deflation: *Provided further,* That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 480 PROGRAM AND GRANT ACCOUNTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) $226,900,000 for Public Law 480 title I credit, including Food for Progress programs; (2) $20,630,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985, as amended; (3) $837,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $30,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided,* That not to exceed 15 percent of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further,* That such sums shall remain available until expended (7 U.S.C. 2209b): *Provided further,* That, of the amount of funds made available under title II of said Act, the United States Agency for International Development should use at least the same amount of funds to carry out the orphan feeding program in Haiti during fiscal year 1998 as was used by the Agency to carry out the program during fiscal year 1997.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended, including the cost of modifying credit agreements under said Act, $176,596,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, as amended, to the extent funds appropriated for Public Law 480 are utilized, $1,881,000.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $3,820,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which not to exceed $3,231,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Foreign Agricultural Service, and of which not to exceed $589,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Farm Service Agency.

EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,500,000,000 in credit guarantees under its export credit guarantee program extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 202 (a) and (b) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING MARKETS EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its export guarantee program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerging markets, as authorized by section 1542 of Public Law 101–624 (7 U.S.C. 5622 note).

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $935,175,000, of which not to exceed $91,204,000 in fees pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act may be credited to this appropriation and remain available until expended: *Provided,* That fees derived from applications received during fiscal year 1998 shall be subject to the fiscal year 1998 limitation: *Provided further,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701.

In addition, fees pursuant to section 354 of the Public Health Service Act may be credited to this account, to remain available until expended.

In addition, fees pursuant to section 801 of the Federal Food, Drug, and Cosmetic Act may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $22,900,000, to remain available until expended (7 U.S.C. 2209b).

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $46,294,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 5 percent of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

FINANCIAL MANAGEMENT SERVICE

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1994, as authorized, $7,728,000.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act,

as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $60,101,000 including not to exceed $1,000 for official reception and representation expenses: *Provided,* That the Commission is authorized to charge reasonable fees to attendees of Commission sponsored educational events and symposia to cover the Commission's costs of providing those events and symposia, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to this account, to be available without further appropriation.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $34,423,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided,* That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1998 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 394 passenger motor vehicles, of which 391 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28, 1954 (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 704. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended (7 U.S.C. 2209b): Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, fruit fly program, and integrated systems acquisition project; Farm Service Agency, salaries and expenses funds made available to county committees; and Foreign Agricultural Service, middle-income country training program.

New obligational authority for the boll weevil program; up to 10 percent of the screwworm program of the Animal and Plant Health Inspection Service; funds appropriated for rental payments; funds for the Native American institutions endowment fund in the Cooperative State Research, Education, and Extension Service, and funds for the competitive research grants (7 U.S.C. 450i(b)), shall remain available until expended.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94–449.

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 710. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1997 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 711. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 712. With the exception of grants awarded under the Small Business Innovation Development Act of 1982, Public Law 97–219, as amended (15 U.S.C. 638), none of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research, Education, and Extension Service that exceed 14 percent of total Federal funds provided under each award.

SEC. 713. Notwithstanding any other provisions of this Act, all loan levels provided of this Act shall be considered estimates, not limitations.

SEC. 714. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 1998 shall remain available until expended to cover obligations made in fiscal year 1998 for the following accounts: the rural development loan fund program account; the Rural Telephone Bank program account; the rural electrification and telecommunications loans program account; and the rural economic development loans program account.

SEC. 715. Such sums as may be necessary for fiscal year 1998 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 716. Notwithstanding the Federal Grant and Cooperative Agreement Act, marketing services of the Agricultural Marketing Service and the Animal and Plant Health Inspection Service may use cooperative agreements to reflect a relationship between Agricultural Marketing Service or the Animal and Plant Health Inspection Service and a State or Cooperator to carry out agricultural marketing programs or to carry out programs to protect the Nation's animal and plant resources.

SEC. 717. None of the funds in this Act may be used to retire more than 5 per centum of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided,* That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 718. None of the funds made available in this Act may be used to provide assistance to, or to pay the salaries of personnel who carry out a market promotion/market access program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) that provides assistance to the United States Mink Export Development Council or any mink industry trade association.

SEC. 719. Of the funds made available by this Act, not more than $1,000,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 720. None of the funds appropriated in this Act may be used to carry out the provisions of section 918 of Public Law 104–127, the Federal Agriculture Improvement and Reform Act.

SEC. 721. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 722. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $150,000,000.

SEC. 723. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board.

SEC. 724. Section 3(c) of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2802 (c)) is amended by inserting before the period at the end the following: '', and includes kudzu (Pueraria lobata Dc)''.

SEC. 725. Notwithstanding section 520 of the Housing Act of 1949, (42 U.S.C. 1490) the Martin Luther King area of Pawley's Island, South Carolina, located in Georgetown County, shall be eligible for loans and grants under section 504 of the Housing Act of 1949, as amended.

SEC. 726. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate the

Food and Drug Administration Division of Drug Analysis in St. Louis, Missouri, or to proceed with a plan to close or consolidate the Food and Drug Administration's Baltimore, Maryland, laboratory.

SEC. 727. The Secretary of Agriculture, before making any reduction in the employee level required to carry out a program or activity under the jurisdiction of the Under Secretary for Rural Development, shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate a plan (including the justification and cost savings) for reducing the employee level below the level described in the budget submitted by the President for fiscal year 1998.

SEC. 728. Effective on October 1, 1998, section 136(a) of the Agricultural Market Transition Act (7 U.S.C. 7236(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''Subject to paragraph (4), during'' and inserting ''During''; and

(B) in subparagraph (B), by striking ''130'' and inserting ''134'';

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 729. STUDY OF NORTHEAST INTERSTATE DAIRY COMPACT. (a) DEFINITIONS.—In this section:

(1) CHILD, SENIOR, AND LOW-INCOME NUTRITION PROGRAMS.—The term ''child, senior, and low-income nutrition programs'' includes—

(A) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(B) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.);

(C) the summer food service program for children established under section 13 of that Act (42 U.S.C. 1761);

(D) the child and adult care food program established under section 17 of that Act (42 U.S.C. 1766);

(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

(F) the school breakfast program established under section 4 of that Act (42 U.S.C. 1773);

(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of that Act (42 U.S.C. 1786); and

(H) the nutrition programs and projects carried out under part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.).

(2) COMPACT.—The term ''Compact'' means the Northeast Interstate Dairy Compact.

(3) NORTHEAST INTERSTATE DAIRY COMPACT.—The term ''Northeast Interstate Dairy Compact'' means the Northeast Interstate Dairy Compact referred to in section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256).

(4) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(b) EVALUATION.—Not later than December 31, 1997, the Director shall conduct, complete, and transmit to Congress a comprehensive economic evaluation of the direct and indirect effects of the Northeast Interstate Dairy Compact and other factors which affect the price of fluid milk.

(c) COMPONENTS.—In conducting the evaluation, the Director shall consider, among other factors, the effects of implementation of the rules and regulations of the Northeast Interstate Dairy Compact Commission, such as rules and regulations relating to over-order Class I pricing and pooling provisions. This evaluation shall consider such effects prior to implementation of the Compact and that would have occurred in the absence of the implementation of the Compact. The evaluation shall include an analysis of the impacts on—

(1) child, senior, and low-income nutrition programs including impacts on schools and institutions participating in the programs, on program recipients, and other factors;

(2) the wholesale and retail cost of fluid milk;

(3) the level of milk production, the number of cows, the number of dairy farms, and milk utilization in the Compact region, including—

(A) changes in the level of milk production, the number of cows, and the number of dairy farms in the Compact region relative to trends in the level of milk production and trends in the number of cows and dairy farms prior to implementation of the Compact;

(B) changes in the disposition of bulk and packaged milk for Class I, II, or III use produced in the Compact region to areas outside the region relative to the milk disposition to areas outside the region;

(C) changes in—

(i) the share of milk production for Class I use of the total milk production in the Compact region; and

(ii) the share of milk production for Class II and Class III use of the total milk production in the Compact region;

(4) dairy farmers and dairy product manufacturers in States and regions outside the Compact region with respect to the impact of changes in milk production, and the impact of any changes in disposition of milk originating in the Compact region, on national milk supply levels and farm level milk prices nationally; and

(5) the cost of carrying out the milk price support program established under section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251).

(d) ADDITIONAL STATES AND COMPACTS.—The Secretary shall evaluate and incorporate into the evaluation required under subsection (b) an evaluation of the economic impact of adding additional States to the Compact for the purpose of increasing prices paid to milk producers.

SEC. 730. From proceeds earned from the sale of grain in the disaster reserve established in the Agricultural Act of 1970, the Secretary may use up to an additional $23,000,000 to implement a livestock indemnity program as established in Public Law 105–18.

SEC. 731. PLANTING OF WILD RICE ON CONTRACT ACREAGE.—None of the funds appropriated in this Act may be used to administer the provision of contract payments to a producer under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for contract acreage on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice.

SEC. 732. INSPECTION AND CERTIFICATION OF AGRICULTURAL PROCESSING EQUIPMENT. (a) IN GENERAL.—Except as provided in subsection (b), none of the funds made available by this Act or any other Act for any fiscal year may be used to carry out section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products under that section, as determined by the Secretary.

(b) RELATIONSHIP TO OTHER LAW.—Subsection (a) shall not affect the authority of the Secretary to carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

SEC. 733. RURAL HOUSING PROGRAMS.—(a) HOUSING IN UNDERSERVED AREAS PROGRAM.—The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking ''fiscal year 1997'' and inserting ''fiscal year 1998''.

(b) HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES AND OTHER LOW-INCOME PERSONS AND FAMILIES.—

(1) AUTHORITY TO MAKE LOANS.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

(2) SET-ASIDE FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking ''fiscal year 1997'' and inserting ''fiscal year 1998''.

(3) LOAN TERM.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(A) in subsection (a)(2), by striking ''up to fifty'' and inserting ''up to 30''; and

(B) in subsection (b)—

(i) by striking paragraph (2) and inserting the following:

''(2) such a loan may be made for a period of up to 30 years from the making of the loan, but the Secretary may provide for periodic payments based on an amortization schedule of 50 years with a final payment of the balance due at the end of the term of the loan;'';

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

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

(iv) by adding at the end the following:

''(7) the Secretary may make a new loan to the current borrower to finance the final payment of the original loan for an additional period not to exceed twenty years, if—

''(A) the Secretary determines—

''(i) it is more cost-efficient and serves the tenant base more effectively to maintain the current property than to build a new property in the same location; or

''(ii) the property has been maintained to such an extent that it warrants retention in the current portfolio because it can be expected to continue providing decent, safe, and affordable rental units for the balance of the loan; and

''(B) the Secretary determines—

''(i) current market studies show that a need for low-income rural rental housing still exists for that area; and

''(ii) any other criteria established by the Secretary has been met.''.

(c) LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.—Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p–2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following:

''(2) ANNUAL LIMITATION ON AMOUNT OF LOAN GUARANTEE.—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year.'';

(2) by striking subsection (t) and inserting the following:

''(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1998 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year.''; and

(3) in subsection (u), by striking ''1996'' and inserting ''1998''.

This Act may be cited as the ''Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998''.

Mr. COCHRAN. I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, let me thank all Senators for their cooperation and assistance in the passage of this bill, particularly those members of our subcommittee and the full Committee on Appropriations. Those who had amendments and helped improve the bill, we appreciate their help as well. I also want to make a special point to commend and thank the members of our staff—on our side of the aisle Rebecca Davies, who is the clerk of the subcommittee; Martha Scott Poindexter, who assisted her; Rachelle Graves-Bell; and our intern, Justin Brasell, who also was a help in the preparation of this bill. We had a lot of hearings. We did a lot of work developing this legislation. We appreciate the help that we got.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, let me echo the laudatory comments the Senator from Mississippi has just paid to the majority staff. I would like to also pay tribute to the minority staff as well as the majority staff. They worked extremely well with us. They were helpful to us as well as the chairman of the committee. On our side of the aisle, I want to especially thank Galen Fountain, who is seated at my left and who was my personal agricultural aide for many years before he joined the appropriations staff, and pay special tribute to him and Rebecca Davies, who probably know on a magnitude of about five times more about this bill than Senator COCHRAN and I do. We simply could not function here and get a bill like this through without the very able assistance of those people. But in addition to Galen, I also want to pay tribute to Carole Geagley and to my own personal staff member, Ben Noble. They have done a magnificent job.

Again, my sincere thanks to Senator COCHRAN, who is the chief architect of this bill. He did a magnificent job. If you watched here, as always when these appropriations bills are coming through, you see the Senators all gathered around here pleading with Senator COCHRAN and me to accept this amendment and that amendment. We would love to accept them all. It is always that way in appropriations. But the money constraints keep us from doing that. But we like to help other Senators.

As I said yesterday afternoon on the floor, it is not pork. Sometimes it is pure, unadulterated research from which the entire Nation benefits. But having said that, I think it is a good bill. We will do our very best to honor all the Senate's wishes in the conference committee. I think we will come back here with a good bill from conference.

Mr. CONRAD. Mr. President, the Agriculture appropriations bill just approved by the Senate includes funds for many important programs, and I deeply appreciate the work of Chairman COCHRAN and Senator BUMPERS in putting together this bill. While I appreciate their good work, I deeply regret that funds are not included to provide the final Federal matching funds for several Cooperative State Research, Education, and Extension Service buildings, including one at North Dakota State University, for which State and local matching funds have been provided.

I believe this is especially unfortunate because of unique circumstances faced by NDSU in their attempt to complete this important project. The Agriculture Appropriations Subcommittee provided an initial planning grant for this building in fiscal year 1992. After that, the subcommittee provided $1.65 million in the fiscal year 1994 bill as a down payment on the Federal share of this $10 million facility. Unfortunately the House Agriculture Appropriations Subcommittee indicated in its fiscal year 1996 report that the committee would no longer provide Federal funding for these buildings if the projects did not have their state and local matching funds in hand by the time Congress prepared the appropriations bills the following year for fiscal year 1997.

Mr. President, this decision created a serious problem for North Dakota because our State legislature only meets every other year. That meant North Dakota State University did not even have an opportunity to seek the State matching funds between the time the House subcommittee issued its notice in the summer of 1995 to provide no additional funding and the time the fiscal year 1997 appropriations bill was considered last summer. The first time our State legislature met following the House subcommittee's decision was January 1997, at which time the legislature provided the State match for this building. In other words, the State provided its share of funds for this building at the first opportunity they had following the announcement by the House subcommittee.

This facility is extremely important because the existing facilities at NDSU were constructed in the 1960's and do not meet USDA standards, causing animal health and production research to be curtailed. The new facility would allow expanded research into fighting anti-biotic resistant viruses, enhancing reproductive efficiency in farm animals, developing safer, more effective pharmaceuticals, improving meat animal research to improve food quality, and other important areas of research.

Mr. President, it is my strong desire that we are able to find a responsible solution to this situation. I believe terminating Federal funding for this building is premature, and I will continue to work with NDSU, USDA, and my colleagues in the House and Senate to see that this building is completed. I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I ask unanimous consent that my remarks be considered as morning business.

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

Mr. BUMPERS. Would the Senator from Utah yield for a moment?

Mr. HATCH. Yes.

THE MIR SPACE STATION

Mr. BUMPERS. Mr. President, everybody knows that I am sort of a Johnny-one-note on the space station. I ask unanimous consent to have printed in the RECORD an article that appeared in this morning's Washington Post, the headline of which is ''Russia Wonders If Manned Flight Is Worth Cost.'' One of the reasons I wanted to put it in the RECORD is because it echoes precisely what I said on the floor, in spades, 2 days ago.

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

RUSSIA WONDERS IF MANNED FLIGHT IS WORTH COST

(By Daniel Williams)

MOSCOW, JULY 23.—With the immediate crisis on the Mir space station largely resolved for now, space officials here have turned their attention to tangled problems on Earth.

They may be as hard to fix as the ones on Mir.

Lack of money, the bane of a space enterprise that was once Moscow's pride, is the major problem. The space program also is suffering from a battered public image that makes rallying support difficult.

Debate over the future of Mir has ignited a finger-pointing spree in newspapers over who is to blame for a recent series of mishaps including a fire, a collision with a supply craft and the erroneous disconnection of a computer system that threw Mir out of position and drained much of its power.

The central issue of the controversy here is one that also surfaces from time to time in the United States: What price manned space travel, especially when compared with unmanned expeditions?

Unmanned expeditions offer more scientific benefits per dollar, except for learning about the capabilities of human beings in space. And as painful as the failure of unmanned satellite launches, space probes and robotic landings may be, a dead satellite is not the same as a dead astronaut. That element alone makes manned flights not only more dramatic, but also more expensive as systems are piled on systems for safety's sake.

Mir is the space equivalent of an old used car, but Russia appears unwilling to give up manned flight, even temporarily. To surrender a human toehold in space is to give it up permanently, officials here argue, ''If we drop space, we will lag behind in this field forever,'' said Yuri Baturin, secretary of the Russian defense council.

One reason for sticking with Mir, even if it requires repeated tinkering under the hood, is that it makes money. The United States alone is paying Russia about $400 million for

continual use of the space station by NASA astronauts to conduct scientific experiments in space.

Although figures for how much Russia spends in space are difficult to come by, everyone agrees that the program is short of cash. On Monday, contractors and scientists held a meeting in advance of Russia's next launch on Aug. 5. Each speaker said that key preparations for the launch were complete, but several also complained they had not been paid for their work, an observer at the meeting recounted.

Economic dealings in Russia are plagued by delayed payments and unfulfilled contracts, and the space program is no exception.

Parts of the modular station are 11 years old, more than double their original life expectancy. Russian space officials have taken pains to assure everyone that the Mir was viable and in no need of being scrapped.

''I would fly to Mir,'' Sergei Krikalev, a cosmonaut and emerging spokesman for the space program, said recently.

In the past, it was highly unusual for officials here to publicly air the detail that has been made available about Mir. In the Soviet era, only successes were widely reported; operational specifics—not to mention failures—were hidden as much as possible. Although the democratic atmosphere in contemporary Russia explains some of the current openness, so too does the perception of a need for public relations.

Foreigners fly on Mir, and secrecy about conditions on the space station would be unacceptable to the foreign patrons of the flights, Russian officials say. In the United States, some politicians oppose the trips as dangerous and of little use; secrecy probably would fuel criticism there.

Inexperience with public scrutiny has led to tension with the Russian press. A few weeks ago, space officials invited reporters to witness work at the Star City cosmonaut training complex. As reporters clustered around Anatoly Solovyov, one of the next cosmonauts to go up, a scientist frantically tried to push them away. ''What if someone sneezes'' he cried out. ''What if the cosmonaut catches a virus? All this preparation will go to waste!''

Russian space officials have accused the Russian press of scandal-mongering, although many reports they initially denied were later confirmed. For example, Izvestia, regarded as the country's leading newspaper, reported that news about a death in the family of Vasily Tsibliev, the commander of Mir, had been withheld from him.

Russian officials stopped denying the story only after the Reuter news agency reported from Tsibliev's home town that the family had kept the death secret.

Space officials expressed irritation with articles about conflicts among different departments of the space program: Mission Control, the cosmonaut training center and Energia, the enterprise that designs, builds and launches rockets and space vehicles.

Newspapers reported that Energia officials blame Tsibliev for the June 25 Mir collision with a cargo vessel. The crash damaged one of the modules and resulted in an emergency reduction of about half of Mir's power.

Sergei Gromov, a spokesman for Energia, said this week that such a report was nonsensical given the interlocking structure of the Russian space program. Almost every one works for everyone else, and Energia had a big say in who was to fly.

''The cosmonauts are affiliated with the Air Force and the cosmonaut training center, but they are also personnel of our organization,'' he said. ''We choose them and pay them; they are half ours. It would be like blaming ourselves.''

Space officials acknowledged that Tsibliev probably faces a loss of bonus money for the flight because of the collision as well as the later episode that caused the temporary loss of all power on Mir: last week's accidental unplugging of a computer cable.

''He may lose some of his bonus. But he is not on trial here,'' cosmonaut Krikalev said.

Solovyov and another cosmonaut due to relieve the exhausted Mir crew prepared today for the Aug. 5 launch and for the repairs they will conduct later in the month on the crippled spacecraft.

The drumbeat of bad news about Mir prompted Izvestia to question whether openness in space was worth the national loss of morale.

The news from space ''makes one feel disappointed rather than proud of the country, which has opened the doors to another state secret,'' said the commentary published Tuesday.

Mr. BUMPERS. I thank the Senator from Utah for yielding.

UTAH SESQUICENTENNIAL

Mr. HATCH. Mr. President, it is a unique privilege and distinct honor for me to recognize, today, on the floor of the U.S. Senate, the 150th anniversary of the arrival of the Mormon Pioneers in the Valley of the Great Salt Lake on July 24, 1847.

It was spring, by the calendar, in late March of the year 1846, as some 3,000 people in 400 wagons struggled west across the rolling hills of Iowa, through snow and drizzling rain. The muddy track was nearly impassable as they lumbered on, far behind schedule and nearing exhaustion. Behind them lay the last few villages of organized territory; before them, the great unknown. Somewhere, over the horizon, beyond the sheltering forests and the waving grasslands, lay the Rocky Mountains. Previous maps showed the way into the wilderness, while scouting reports told of the romantic landscape ahead: Black clouds of buffalo sweeping across the prairie swells, great rivers and snow-capped peaks, the endless sky, and the lonely stars. Most of these wagons had never been this far West; perhaps a few had reached Missouri—Independence or Clay County. But that was no comfort. Few people in this wagon train cared to think much of Missouri—where the stench of massacre and betrayal had but recently overwhelmed the sweet scent of fresh gardens and new-mown hay. Now, as history repeated itself, their last refuge—their beautiful Nauvoo—was besieged by hateful mobs, and there seemed no other solution than to flee, yet again. These wagons were the vanguard; hundreds were on the road behind them, and thousands more, gathered on the banks of the Mississippi, were making ready to follow.

Barely 26 years before, young Joseph Smith, by his own account, had entered the woods near his father's farm to pray, when ''Suddenly, a light descended, brighter far than noonday Sun, and a shining, glorious pillar o'er him fell, around him shone, while appeared two heav'nly beings, God the Father and the Son.'' Now, scarcely grown to the fulness of his prophetic calling, this towering leader lay dead in a martyr's grave, and the faithful who had responded to the restored Gospel entrusted to him were scattered and driven, with only one hope, expressed in the hymn that would become their inspiration and epitaph: ''We'll find the place, which God for us prepared, far away in the West, where none shall come to hurt, or make afraid. There, the Saints will be blessed.''

They came from everywhere, these honored pioneers—New England, Old England, the lands of the North—wherever believers could spread the word. Some were already crusty pioneers—the likes of Daniel Boone or the Green Mountain boys —whose ancestors had settled the Tidewater counties or landed at Plymouth Rock. Others had only recently left the coal mines of Wales and the sweatshops of Manchester to take their first draught of fresh air in the New World. A few were professionals, who could doctor, or teach, or play music to ease the rigors of the trail; many were artisans—carpenters, wheelwrights, shoemakers—whose skills were sorely needed. But for all their skills and preparations, far too few were ready for the bone-deep weariness, the numbing cold, or birthing in the open air.

Critics might say that they brought their misery upon themselves—through blind faith and foolhardy dreams. Such was the litany of those who mobbed and burned and killed without mercy. Yet the saints were moved by a destiny their detractors could not have understood. It came from the lips of their fallen prophet:

> I prophesied that the Saints would continue to suffer much affliction * * *, many would apostatize, others would be put to death by our persecutors or lose their lives in consequence of exposure or disease, and some of you will live to go and assist in making settlements and build cities, and see the Saints become a mighty people in the midst of the Rocky Mountains.

As summer came to western Iowa the vanguard paused to build and plant for those who would follow, and, thus further delayed, found it necessary to spend the winter of 1846–47 on the banks of the Missouri, upriver from Council Bluffs, in Indian territory. Here, at winter quarters, they gathered and regrouped. On the 7th of April 1847, the advance company, led by Brigham Young, was once more on the move, followed in June by approximately 1,500 people organized after the Biblical model as the ''Camp of Israel.'' By July 21, after nearly 4 months on the trail, a scouting party reached the Valley of the Great Salt Lake, followed on the 22d by the main body of the advanced company. Two days later, Brigham Young himself reached the foothills at the edge of the Great Basin. Surveying the valley before him, as if in a vision, he finally spoke the now-famous words of approbation: ''This is the right place. Drive on.''

Over the next 150 years, the vision was verified and the prophecy fulfilled. Upward of 70,000 people crossed the plains in wagons and handcarts. Many a journey started from Liverpool where the faithful from throughout Europe embarked for Zion, fulfilling, as they believed, the words of the prophet Isaiah:

And it shall come to pass in the last days, that the mountain of the Lord's house shall be established in the top of the mountains, and shall be exalted above the hills; and all nations shall flow unto it. And many people shall go and say, Come ye, and let us go up to the mountain of the Lord, to the house of the God of Jacob; and he will teach us of his ways, and we will walk in his paths * * *.

Six thousand died along the way. Some lost heart and turned back, or shrank before the daunting task of taming the harsh land and moved on to the greener pastures of Oregon and California. But more than 300 settlements in Utah and surrounding States, as well as colonies in Canada and Mexico, testify to the courage and determination of that vast majority who persevered.

Today, the desert blossoms with the fruits of their labor, while their descendants continue to build upon their firm foundation. A yearlong celebration, with the theme ''Faith in Every Footstep,'' is now in progress to honor their memory. Well-wishers and admirers in towns and cities along the trail and throughout the world have joined with Latter-day Saints in commemorating this milestone of human history—with the dedication of buildings and monuments in hallowed places, with theater and music, historical displays, and a vivid reenactment of the trek itself. It has been, and continues to be, a joyful celebration, as befits the memory of those whose sacrifice has indeed given birth to ''a mighty people.''

Mr. President, I would like to add my tribute by quoting the words of a Mormon hymn which reflects—I think, appropriately—the joy and the guiding faith of those marvelous Saints who, 150 years ago, put their fate in the hands of God and turned their faces West:

The Spirit of God like a fire is burning!
The latter-day glory begins to come forth;
The visions and blessings of old are returning,
And angels are coming to visit the earth.
We'll sing and we'll shout with the armies of heaven,
Hosanna, hosanna to God and the Lamb!
Let glory to them in the highest be given,
Henceforth and forever, Amen and amen.

Mr. President, my forebears were part of these pioneers who came across this vast territory, who suffered untold privations. My great-great-grandfather was killed by a mob. I have to say that when they came to Utah, they followed the leadership of Brigham Young and went wherever they were told to go. They believed in what they believed. They had faith in what they had faith in. And they lived up to the principles that literally made Utah such a great State and much of the West greater than it would have been.

So I am very grateful for these pioneers. I am grateful for those who made that commemorative trip this year and have gone through the deprivations and privations to show just a little bit what some of these early pioneers had gone through.

Last but not least, a number of them expressed themselves and said that this experience of going on that pioneer trek, walking it, riding in covered wagons, riding horses, and pulling handcarts was one of the greatest experiences of their lives. Unfortunately, it wasn't perhaps the greatest experience for our early forebears, the pioneers, because of the many travails and problems they had. These trails they had to break themselves, in many respects, and they did it and I am grateful for it.

Mr. President, I yield the floor.

Mr. BENNETT. Mr. President, I ask unanimous consent that, like my colleague, I may be allowed to proceed as in morning business.

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

Mr. BENNETT. Mr. President, I had not expected to be here in the Senate today. I had made plans to be in Salt Lake City where the celebrations are going on for a historic event marking the 150th anniversary of the entry of Brigham Young into the Salt Lake Valley. As Senate business has been pressing, combined with a bad cold that you can hear in my throat, I decided wisdom meant that I should stay here, even though my heart is in Utah.

Mr. President, we have heard a lot from the senior Senator, appropriately, about the trek and what went on. Like him, I have forebears who were part of that great movement, which began with Brigham Young in 1847, but continued until the coming of the railroad in 1869. My grandfather, John F. Bennett, was 3 years old when his parents and his grandparents took him out of the slums of Liverpool, where they were born and raised in what would be considered the lower-lower class, walked across the great American plains to try to find a new life and a new religion in a new place. Out of that family that came from that little boy, who had no education, no hope, and in the class-ridden status of England at the time, no chance of opportunity for advancement, have come two United States Senators, a number of successful businessmen, a series of college graduates, and a tremendous family of achievement and family happiness of which I am a beneficiary.

There was indeed something magic about that trek that called people not only from the United States, but from all over the world, to go forward in the name of their religion and their faith to a place that was picked because no one else wanted it. Indeed, their leader chose this place because he had been literally driven out of the United States—some say solely because of his religion, others say because of political problems, and others say because the Mormons weren't good at getting along with their neighbors in Missouri, Illinois, and the other places where they tried to settle permanently.

I won't try to rehash that history because it doesn't really matter. What matters is that they stayed together, they traveled together, they spread their version of the Gospel of Jesus Christ throughout the world, and they called their adherence from all over the world to join with them in that tremendous sacrifice, to find a place where they could be left alone to flourish.

They were not successful. They were not left alone. Within 2 years after Brigham Young arrived, gold was discovered in California and the world started going through Utah on its way for riches. Not everyone found their way to riches, but they did help, economically, build a State—an ironic twist of events for Brigham Young, who wanted to be alone.

We have had a great deal said during this sesquicentennial year about the tremendous physical sacrifice involved in that trek. As I think of my 3-year-old grandfather, I can barely identify with how physically difficult that must have been for him and for his parents and his grandparents. I have just gone across country with a 5-year-old grandchild, courtesy of Delta Airlines, and it was a whole lot easier than taking him in a covered wagon for hundreds, if not thousands, of miles.

So I pay tribute today to the legacy that I owe to those people and what they did and what they endured. I have been back to England and have looked at my relatives who stayed there and compared what happened to those of us who are descendants of the people who were willing to make that trek with what happened to those who stayed in what they thought would be the comfort of the British Isles. It is one of the things I offer thanks for in my personal prayers, that I am descended from that branch of the family that endured that trek.

I want to make one final point about this, which I think is the important point out of this entire experience as we pay tribute to the people and who they were and what they did. As impressive as their physical sacrifice and performance was, there is something else that I want to mention that I think, in many ways, is more distinctive and more instructive for us today in our world. This was a group of people—at least the core group—who had been physically driven from their homes several times. They had been physically driven from Ohio. They sought refuge in Missouri; they did not find it. They were physically driven from Missouri and ended up penniless, with nothing but the clothes on their backs, in the State of Illinois. They started over again. They built the largest and, by some accounts, most beautiful city in Illinois. They were physically driven from there and, again,

started out with very little to go someplace where they could be left alone.

In today's world, when we see articles in books constantly written about how we are all victims, we could expect that they would have spent their time lamenting over that which they lost and focusing on their resentments and their bitterness and that which other people owed them. They did not. Oh, I am sure that there was some of that. It would only be human that there would be some regrets and tears shed for homes left. But that was not their focus. That was not their driving force. They were not driven by hatred, a desire for revenge, a sense of victimhood and petitions to get everything back that had been taken away from them.

Instead, their focus was on the future. Senator HATCH has already quoted the third verse of the hymn that they wrote and sang to themselves again and again as they endured the physical difficulties. I want to repeat it here in this context. It was not a hymn of mourning or longing for the past.

They said:

We'll find a place which God for us prepared,
Far away in the West, where none shall come to hurt,
or make afraid.
There, the Saints will be blessed.
We'll make the air with music ring,
Shout praises to our God and King, above the rest.
This tale will tell, all is well, all is well.

Mr. President, we look around the world today in Bosnia, in Northern Ireland, in the Middle East, and we find people who have suffered ancient wrongs, sometimes terrible, unforgivable wrongs, at the hands of their fellow men, in the name of politics or religion, or just plain ethnic hatred. We find people in the Middle East who remember the Crusades and feel offended by something that happened a thousand years ago and are sworn to set right those ancient grievances.

I say to them and to all of us that those who made their way across the plains 150 years ago had reason to hold grievances, but they looked not to the past but to the future. And as I rise today to pay tribute to their memory, I pay tribute not only to their physical courage in undergoing that trek and express my gratitude for the privilege of being descended from them, but I express my greater gratitude for what, in my view, is a greater legacy: that I have grown up in a circumstance where these people, however much they talk about the history of the past, are willing to forgive the past; that they are not viewing themselves anymore as that first generation, as victims, as obsessed with redressing old wrongs or attacking old antagonists. The legacy that is of greatest value to me and to the people of my State that came from those who were engaged in that great trek was their legacy of hope and optimism and a willingness to forgive and forget and look to the future.

That is what we are celebrating today as we look back on 150 years since the time they finally found their place faraway in the West, which God had in fact for them prepared, where they have indeed been blessed. Senator HATCH and I would like to be with them today, but we cannot because of our duties here in the Senate. But we thank the Members of the Senate for their indulgence in allowing us to take the time of the U.S. Senate and make this recognition of significant events in American history.

I yield the floor.

Mr. GREGG. Mr. President, before I proceed with the formal business of the Senate, I just want to congratulate and acknowledge the Senators from Utah in their extraordinarily moving and thoughtful and brilliant statements on the importance of today and the history of Utah and the Mormon Church, which has so reflected effectively the history of this country. The tempo and culture of that experience has been one which has been intertwined with our Nation's strengths and, unfortunately, some of our Nation's failures.

Their statements today, I think, as well as anything that I have ever heard, reflect the energy and enthusiasm and vitality and warmth that that church presents to its parishioners and which makes it such a dynamic force in the faith of many people across this country and across the world. So I congratulate them for their truly extraordinary statements.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate now turn to S. 1022, the Commerce, Justice, State, and Judiciary appropriations bill.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1022) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1998 and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. GREGG. Mr. President, I ask further unanimous consent that with respect to the Feinstein amendment regarding the ninth circuit court, there be 4 hours of debate on the amendment equally divided between the chairman and the ranking member or their designees with no second-degree amendments in order to the amendment. I further ask unanimous consent that following the expiration or yielding back of time, the Senate proceed to a vote on or in relationship to the amendment.

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

Mr. GREGG. Mr. President, I also ask unanimous consent that the following Appropriations Committee staff members be granted floor privileges during the consideration of this bill: Jim Morhard, Paddy Link, Kevin Linskey, Carl Truscott, Dana Quam, Josh Irwin, Scott Gudes, Emelie East, Karen Swanson-Wolf, Jay Kimmitt, Luke Nachbar, and Vas Alexopoulos.

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

Mr. GREGG. This request I just made also includes both majority and minority staff.

Mr. President, I come to the floor today to introduce this bill, S. 1022, for the fiscal year 1998 appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies. This year we have taken great strides to obtain bipartisan support for this bill and to be responsive to the needs of the people within the budget that we are provided. I think we have achieved this goal.

I want to especially acknowledge and thank the ranking member of this committee who for many, many years has served on this committee and whose cooperation, effort, and knowledge has been a core element in developing this bill and achieving progress in making these agencies function effectively. And that, of course, is the Senator from South Carolina [Mr. HOLLINGS].

The bill before us includes $31.6 billion for programs administered by the Commerce, State, and Justice Departments, the Judiciary, and related agencies. That is a lot of money, $31.6 billion, but I would note that it is a bill that is frugal. It is $4 billion less than what the President's budget request, and it is over $100 million less than what the House will have passed in its bill in this area.

The essential thrust of this bill is to make sure the committee adequately funds the activities of our criminal justice system and to make sure that the States receive adequate funding to undertake an aggressive posture to control the spread of violence and crime in our Nation. As a result, we have increased funding for the Department of Justice by 5 percent over 1997 levels. This represents a fairly significant commitment to that Department, obviously.

Within the Justice Department, top priorities include fighting crimes against children; providing assistance to State and local law enforcement; countering terrorism activities; bolstering drug control efforts; and pursuing new juvenile programs.

As chairman, I directed the committee to take a close look at the needs of the juveniles in our country. In hearings this year, it was brought to my attention the threats our children face when surfing the Internet. While the Internet can be a place for the world to be at play and to be at the access of children's fingertips, that world can also have its shady side where predators lurk to exploit our children if given the opportunity.

The Federal Bureau of Investigation [FBI], along with organizations like the Center for Missing and Exploited

Children, has worked to combat pedophile activity on the Internet. In our legislation we provide funding to continue these efforts: $10 million for the FBI to apprehend the pedophiles who use the Internet in their criminal activities; $2.4 million to the local and State law enforcement agencies to form specialized cyber units to investigate and prevent child sexual exploitation; and $6.2 million for the National Center for Missing and Exploited Children to continue their efforts to educate and work with law enforcement officials in handing child exploitation cases.

Also, the committee believes it is in the national interest to improve the skills of our law enforcement personnel on all levels and supports initiatives to do this. The Community Oriented Policing Services, or COPS Program, is funded at $1.4 billion so that 100,000 extra police can be hired by our States and our communities. The President's request did not include any funding for the local law enforcement block grant. However, we have provided $503 million so that localities could obtain funding for initiatives to reduce crime and improve public safety.

Also, in response to a number of requests from law enforcement officials, we have added $10.5 million to the President's request for a regional information sharing system so that law enforcement officers throughout the country can have increased access to national crime databases.

This year the committee has taken a strong stance against the violent acts that are directed toward women and children.

Our support includes a $67.3 million increase in the funding for the Violence Against Women Act grants. We recognize the need to enhance and expand current women's assistance programs as violent crimes against them continue. Violence Against Women Act grants will be given to the States to develop and implement effective arrest and prosecution policies to prevent, identify, and respond to violent crimes against women. This funding provides domestically abused women and children with additional support services. This includes access to specially trained prosecutors and law enforcement officials. Only 20 States received Violence Against Women grants in 1996. We believe there should be sufficient funding for more States to participate in this program. Consequently, we have appropriated funds for this effort. And while we have given significant funding to the Violence Against Women Program, other grant programs still receive funding—the Motor Vehicle Theft Prevention Program, the State Prison Grant Program, and the Missing Alzheimer's Patient Program, just to name a few.

The Counterterrorism Fund received $29.5 million so that the law enforcement officials can counter, investigate, and prosecute those people who are involved in terrorist activities. In addition, the funds will be used to conduct terrorism threat assessment against Federal agencies and their facilities. Additional funds have been provided in a classified portion of the bill, which is available to all Members.

Like many Members of Congress, the committee is concerned about the proliferation of illegal drugs coming across our borders and its impact on our children. In an effort to support law enforcement efforts to combat the rampant spread of illegal drugs, the committee devoted $16.5 million to combat the trade in methamphetamine and $10 million to the effort to reduce heroin trafficking. The committee also provided substantial funding for the Drug Enforcement Administration program to provide adequate equipment for its agents. It does no good to hire new agents—and we are hiring a large number of new agents in this bill—if they do not have the equipment needed to do the job. So this bill takes care of that issue.

Over the last few years, the infrastructure needs of organizations funded by this bill have been neglected. We have made a point of providing funds to repair buildings throughout our agencies. Over $300 million will go to the FBI, the Drug Enforcement Administration, and the Bureau of Prisons to make much-needed infrastructure improvements. This money covers the costs of a new FBI forensics lab at Quantico, State prison grants to help States build new prisons, and facilities for 1,000 new Border Patrol agents we have funded through the Immigration and Naturalization Service.

As last mentioned within the Justice portion of the bill, the committee sets aside funding for a Juvenile Block Grant Program, subject to the authorization of the Judiciary Committee. It is our understanding that the authorization may address such issues as the need for increased penalties for criminal street-gang activities and prosecuting violent youth offenders as adults at the discretion of the prosecutor. This funding should assist in undertaking that effort.

This is just a brief summary of a wide range of Justice provisions that will help law enforcement combat the threats that Americans face in our daily lives.

In the area of the Commerce Department, we have made some difficult decisions, but I think they are constructive ones. We have, for example, provided strong support for the National Oceanic and Atmospheric Administration (NOAA), which provides high-quality research and provides technical data to our economy. In particular, the bill increases funding for the Coastal Zone Management Act, which is important to all coastal and Great Lakes States and provides funding for estuarine research. Since 75 percent of our Nation's population lives near the coastline, placing a priority on preserving our estuarine areas is important. Equally important is the need to conserve the resources that live in our estuaries and oceans.

The bill increases funding for protected species research. The Sea Grant Program, which conducts research of regional importance through colleges and universities, is strongly supported in this bill. While we believe NOAA is doing essential work for America, sometimes we disagree with our House colleagues on the level of funding. We intend to address this in conference, and we will go to conference with a strong bill.

The committee provides increased funding for the National Weather Service, also. Many of us are concerned that this agency has the resources necessary to ensure timely warning of severe weather, especially hurricanes and tornadoes. The bill contains funding for satellite improvements which are critical to monitoring and predicting the weather. The committee supports the modernization of the Weather Service and looks forward to working with the Department of Commerce to ensure the orderly deployment of technology needed to improve forecasting and warnings.

The largest increase in the Department of Commerce is the administration's request for additional funds to prepare for the decennial census. We have had previous discussions on the Senate floor about whether or not to use a sampling technique to conduct the census 2000. The bill contains language on this issue developed on a bipartisan basis during the consideration of the Supplemental Appropriations bill earlier this year. The increase for fiscal year 1998 does not require a decision on whether or not to employ sampling.

The committee also funds the trade development and enforcement responsibilities of the Department of Commerce at or slightly above the administration's requests. The Bureau of Export Administration has two new requirements which deserve mention. First, the Department of State's encryption export control responsibilities have been transferred to the Export Administration.

Second, with the ratification of the Chemical Weapons Convention (CWC), the Export Administration will have the primary responsibility for enforcing the convention. While funds are provided at the requested level to support the Export Administration's enforcement responsibilities, any additional funds which may be needed during fiscal year 1998 should be provided by the Department of Defense or the Department of State. There is some concern that the administration has underestimated the funds needed to enforce CWC. The Department of Commerce should not be required to shoulder all the costs of Chemical Weapons Convention enforcement.

Many Senators will be glad to hear that the committee did not agree with the administration's request to zero out public telecommunication facility

grants. We went ahead and provided $25 million for this program based on the strong bipartisan support it enjoys.

In the judiciary area of the bill, the committee had to confront some difficult issues, but I believe we have provided the American people with a better judiciary through our efforts. The appropriation is sufficient to maintain current judicial operation levels and takes into account the increase in bankruptcy caseloads and probation population. We are also providing the Justices and judges with a 2.8-percent cost-of-living adjustment requested by the President.

The largest change—and it is a change I think will be for the best—is that the ninth circuit Federal court will be split into two circuits, reducing the caseload level in each to a manageable level. During the 1996–97 session, the Supreme Court overturned 96 percent—96 percent—of the decisions reviewed by the ninth circuit. This high overturn rate is a beacon that the Ninth Circuit is not meeting the needs of the people it serves. Last Congress, Chief Judge Wallace stated in testimony before the Senate Judiciary Committee that ''it takes about 4 months longer to complete an appeal in the ninth circuit as compared to the national median time.'' The caseload continues to increase yearly.

Justice Kennedy of the Supreme Court testified before our committee on April 17 that there are ''very dedicated judges on that circuit, very scholarly judges. * * * But, [he thinks] that institutionally, and from a collegial standpoint, that it is too large to have the discipline and the control that is necessary for an effective circuit.''

While some of my colleagues may disagree, the facts lead me to believe it is past time for the ninth circuit to be split, and we are going to hear a considerable amount of debate on that issue later today.

Lastly, for the judiciary, we are providing an additional $2.2 million to the Supreme Court for renovations in an effort to comply with safety regulations and with the Americans With Disabilities Act at the Supreme Court building.

Moving on to the State Department, we have fully funded to the best of our abilities, the operations carried out by this Department. We made sure that the day-to-day functions of the State Department are funded at an acceptable level, and we are going a long way toward updating their outdated technology systems.

Maintaining infrastructure was a top priority of mine in funding this bill. To do this, we are providing $40.4 million above the President's request for the Capital Investment Fund so that desperately needed upgrades on information and communications systems can be done. It is quite alarming to hear that the State Department is still using Wang computers and that oversees, about 82 percent of the radio equipment, 55 percent of the computer equipment, and 40 percent of the telephone systems are obsolete. These are the people who are representing us in foreign countries and they deserve to have up-to-date equipment.

As a final noteworthy item, this bill covers the U.N. arrears as agreed to during the budget talks this year, in addition to supporting the bicameral U.N. reform package found in S. 903, the Foreign Affairs Reform and Restructuring Act of 1997. The international organization and peacekeeping efforts are also included in this appropriation.

This is a very quick rundown of a very complicated and expansive piece of legislation. I believe it is an extremely strong bill, complying with the ideas that have been guiding the budget process over the last few months. As I mentioned earlier, it is under the President's request and under the House bill. Yet I believe it still represents a sound and strong commitment to the agencies which it has to cover.

Before turning this over to my esteemed colleague and ranking member, I want to recognize the contributions of my staff, which have been extraordinary, the members of my staff that I outlined earlier, Kevin Linsky, Paddy Link, Vas Alexopoulos, Jim Morhard, Carl Truscott, Dana Quam, Josh Irwin, and Luke Nachbar; and I also want to acknowledge the ranking member's staff, who do such a super job—Scott Gudes, Emelie East, and Karen Swanson-Wolf. Their help has made a tremendous difference, and we would not have gotten to this point without their assistance.

I yield to my ranking member.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank our distinguished chairman.

Mr. President, this Commerce, Justice, and State appropriations bill is probably the most complicated of the 13 appropriations bills. In it we fund programs ranging from the FBI to our embassies overseas, to fisheries research to the Small Business Administration. It requires a balancing act—considering the priorities of our President, our colleagues here in the Senate, and our Nation, in equitably distributing our subcommittee 602(b) allocation to the many programs in this bill. I think Chairman GREGG has done a masterful job in putting it together, and I support him in bringing this very solid bill before the Senate.

I would especially like to recognize the majority staff who are all new to this bill—Jim Morhard, Paddy Link, Kevin Linskey, Carl Truscott, and Dana Quam, and our Democratic staff—Scott Gudes, Emelie East, and Karen Swanson-Wolf. They have been working night and day to put together this bill. They have done a truly outstanding job, and have ensured a bipartisan spirit was maintained throughout this entire process.

In total, this bill provides $31.623 billion in budget authority. That is about half-a-billion dollars below the President's budget request * * * and it is right at our section 602(b) allocation. The bill is $1.4 billion above this year's appropriated levels.

JUSTICE

Once again, our bill makes it clear we're not fooling around with Justice and law enforcement priorities. The bill provides appropriations totaling $17.3 billion—an increase of $862 million above last year. Including fees we provide the Department, the total Justice budget comes to $19.3 billion.

It might be well to note historically that some 10 years ago the bill was right at $4 billion. We in the Congress run around everywhere, ''Cut spending, cut spending, cut spending.'' If you want to know where the increases in spending occur, you can look at the space program. I followed the thought, of course, of the distinguished Senator from Arkansas—who has been up in space. They say the interest is trying to get Senator JOHN GLENN back in space. My interest is trying to get the Senator from Arkansas, Senator BUMPERS, out of space. He has been up there for 2 days. But he has been doing a masterful job, trying to save moneys there.

Now, with respect to the Justice Department, the DEA, hundreds of more FBI agents, a new laboratory there, Cops on the Beat, 1,000 more Border Patrol, half a billion more in prisons—we are building prisons. If you haven't gotten a prison in your State, call us; we will be glad to build you one. Because we are not building schools in America, we are building prisons everywhere. So, everybody ought to understand, in the 10-year period under the leadership here of this Congress, trying to cut spending, we have veritably quintupled the Justice Department.

Of this amount, our Federal Bureau of Investigations, the FBI, is provided $3.1 billion, and we have funded completion of its new laboratory at Quantico as well as $10 million to enhance efforts to combat child pornography on the Internet.

As, I said, we've made sure the INS will keep our borders secure, by providing an additional, 1,000 Border Patrol agents in the Immigration and Naturalization service. Furthermore, the bill extends section 2451 of the Immigration Act. These fees allow adjustment of status for legal immigrants in the United States and result in the Immigration Service getting almost $200 million per year for border enforcement and combating illegal immigration. This is important to both INS which needs the funding, and the State Department which no longer has the consular officers overseas to provide for adjustment of status in embassies.

Within the Justice Department, we also provide $1,033 billion for our prosecutors, the U.S. attorneys. That is an increase of $55 million. I'm pleased to note that it provides for activation of

the National Advocacy Center to train our Federal and State prosecutors, and it continues State and local violent crime task forces which report to our U.S. attorneys.

So, looking at the Justice grant programs: the COPS Program is provided $1.4 billion; the local law enforcement block grant is $503 million; $590 million is recommended for State prison grants; $264 million for violence against women grants; $580 million is provided in Byrne grants and; $380 million is provided for juvenile justice programs which is over twice the amount as this year.

COMMERCE

On the Commerce Department, the bill provides $4.169 billion for the Commerce Department. That is an increase of $368 million over this year. Within this Department, the bill provides $659 million for the Census, which is an increase of $314 million. This bill does not prohibit statistical sampling, though we will continue to monitor this issue closely.

We have provided $25 million for the Public Broadcasting facilities grants and have rejected the administration's proposal to terminate this program which assists public television and radio.

The recommendation includes $200 million for the NIST Advanced Technology Program and $111 million for the Manufacturing Extension Program. So this bill supports the bipartisan budget agreement which specifically made these technology programs a priority. Another program of interest, the International Trade Administration, has been provided with $280.7 million.

The biggest account in the Department of Commerce, NOAA, has been provided with $2.1 billion. We have included $473 million for Weather Service operations, an increase of $23 million above the request. This ensures that we won't have a repeat of all the problems we have seen this year. LIke cutting the National Hurriance Center. And this bill continues support for the NOAA oceans programs and the NOAA fleet.

I just attended the commissioning of the most modern research vessel in the fleet, the *Ronald H. Brown*. I am pleased to report that, rather than the interest up here—310 million miles away whether or not some little instrument ran into a rock—in contrast, the NOAA fleet is out researching seven-tenths of the Earth's surface, the oceans and atmosphere, mapping the ocean floor and harbors and conducting surveys of living marine resources so that the NOAA fleet is alive and well. And we are not going to scuttle it as has been proposed here previously.

STATE

In our title for the State Department and international programs, we have included some $4 billion for the Department of State, and have supported the consolidation of our international affairs agencies. We have assigned, again, a priority to the operations and facilities of the State Department, for example we included $105 million to modernize computer and telecommunications systems.

We have included $100 million for United Nations and peacekeeping arrearages as part of the agreement that was reached with the Administration on the Foreign Relations authorization bill. The recommendation also includes $20 million for renovating housing and the U.S. Embassy in Beijing.

I have just had a conversation with the Ambassador Designate to the Court of Saint James, which has a magnificent residence there. It was done over by Walter Annenberg. It looks like a beauty to me. It doesn't look like it's falling down. But they are going to close it and get into a multimillion-dollar renovation program over 2 years, while they are in squalor in Beijing.

I can tell you here and now, we have to do something about the Property Division over in that Department of State, so that we can at least have decent housing for those who are willing to sacrifice and lead this Nation's foreign policy, particularly now in the most important nation with respect to foreign affairs, the People's Republic of China.

There is almost $400 million in the bill for international broadcasting, $200 million for international exchanges. That is the first time, of course, Mr. President, that the Fulbright and other exchanges have gotten an increase. It should be noted that no funds are included for the National Endowments for Democracy, and the distinguished chairman and I are well able to defend that particular initiative now. I imagine we will be hearing from our colleagues with an amendment. But if they want to bring this up and talk about pork, I never heard of worse ones—although we have had it. This Senator at one time opposed it; at one time supported it at the request—at the fall of the wall. We didn't have an entity that could really bring newspapers and printing presses and election fliers for democratic elections where in countries they had never held a democratic election. It looked to me it might be an exception.

The Department of State, we ought not to be embarrassed, the Department of State ought to be, really, about its front-line position, now, with the fall of the wall, in promoting democracy, individual rights, and the American way the world around. And we need not fund the chairman of the Democratic Party, the chairman of the Republican Party, the Chamber of Commerce and the AFL. I think that here we can make a savings of several million dollars.

Mr. President, this is a good bill. I support it. We have had to make some tough decisions, but under the leadership of Senator GREGG, I think we have made the proper decisions. It is nice to have worked on this State, Justice, Commerce bill, and I urge my colleagues to join in its passage.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 979

(Purpose: To authorize the Administrator of General Services to transfer certain surplus property for use for law enforcement or fire and rescue purposes)

Mr. GREGG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 979.

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

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

The amendment is as follows:

On page 65, strike lines 3 through 9 and insert the following:

SEC. 119. Section 203(p)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)''; and

(2) by adding at the end the following new subparagraph:

''(B)(i) The Administrator may exercise the authority under subparagraph (A) with respect to such surplus real and related property needed by the transferee or grantee for—

''(I) law enforcement purposes, as determined by the Attorney General; or

''(II) emergency management response purposes, including fire and rescue services, as determined by the Director of the Federal Emergency Management Agency.

''(ii) The authority provided under this subparagraph shall terminate on December 31, 1999.''.

Mr. GREGG. Mr. President, I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask that the previous amendment that has been proposed be set aside and I have an amendment that I will send to the desk.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 980

(Purpose: To prohibit certain corporations from participating in the Advanced Technology Program)

Mr. BROWNBACK. Mr. President, I ask that the pending amendment be set aside. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 980.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the 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 title VI, insert the following:

SEC. 6 . Section 28(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)) is amended by adding at the end the following:

''(12) For each fiscal year following fiscal year 1997, the Secretary may not enter into a contract with, or make an award to, a corporation under the Program, or otherwise permit the participation of the corporation in the Program (individually, or through a joint venture or consortium) if that corporation, for the fiscal year immediately preceding that fiscal year, has revenues that exceed $2,500,000,000.''.

Mr. BROWNBACK. Mr. President, this amendment deals with the Advanced Technology Program which was established to spur high-risk precompetitive research and development. It was intended to make U.S. businesses more competitive in the global marketplace by assisting them in developing technologies which they wouldn't fund on their own.

It was not established to fund research and development which would have been funded in the marketplace anyway. No one believes that the Federal Government should be in the business of taxing American families to subsidize product development, research spending for rich corporations. I think this would be in anybody's definition what former Secretary of Labor Robert Reich qualified and stated was ''corporate welfare.''

I have grave concern that the Advanced Technology Program has become just that, a corporate welfare program. While recognizing the importance of a strong Federal role in research and development, I am very concerned that the ATP program is providing too much money to companies that have clearly adequate resources of their own to fund any research that is worth their doing.

My amendment is a simple one, and it should have broad bipartisan support. My amendment says that no company with revenues in excess of $2.5 billion—revenues in excess of $2.5 billion—can receive Federal funding through the Advanced Technology Program. We are talking about revenues. This is gross revenues of a company of $2.5 billion—so this is a pretty large company we are talking about—above which you can't receive funding from the Advanced Technology Program. I think if you are having revenues of $2.5 billion or more a year, you can afford to fund your own research and development program, and you don't need the Advanced Technology Program.

We use the $2.5 billion revenue threshold because it would exclude the 500 largest companies in America, the so-called Fortune 500, from receiving welfare dollars.

I think if you are a Fortune 500 company, you can do without corporate welfare dollars. In the word of one Silicon Valley executive—and there have been a number out there to support this provision; we have a letter signed by over 100 CEO's from startup companies in Silicon Valley which say terminate the entire ATP program, get rid of the whole thing. We are saying let's hold it to the largest corporations.

One executive said this:

If you were General Motors with annual sales of $160 billion and $20 billion in the bank, why don't you fund this great idea yourself and patent it yourself?

I think the answer to this question is pretty simple, and that is, if there is a Federal subsidy program which will fund corporate R&D for free, even if the company has enough corporate R&D resources, and if that company's competitors are taking the money from the Federal Government, why not take the money from the Federal Government yourself? Therefore, we need to close that loophole so their competitors can't get it and they be forced to take it as well.

What may be most troublesome is that for every grant given to a huge company with a multibillion-dollar budget and CEO making tens of millions of dollars, there is a small company who may have a good idea but can't raise the capital and will do without Federal assistance. The small companies will do without, while the big corporations get it. What we are saying is let's keep it from going to the megacorporation and have more available to the small corporation, which is what we are trying to target in the first place.

We are not talking about a program that gives money exclusively to small business, entrepreneurs or inventors working in their garages. Some ATP money goes to small companies and universities. This amendment would make it more available to them. But the top five companies that participate in the greatest dollar volume of grants from the ATP program are some pretty familiar names: IBM, General Motors, General Electric, FORD, Sun Microsystems. I think they can afford to fund these programs on their own. They don't need corporate welfare, and we should be making more of this available to small companies.

Maybe they get it because they have a great idea or maybe they get it because they have a lobbyist in Washington that watches for these things. That may be part of it as well. Whereas, a small startup company is just busy in their garage, or wherever, trying to hustle enough to make this thing go. We want to make it more available to the small companies, the entrepreneurs and keep it out of the hands of the Fortune 500, all of which have large lobbying staffs to get hold of that here.

According to the Department of Commerce, more than 40 percent of single-applicant grants currently go to large companies—40 percent. Other ATP recipients are AT&T, Black & Decker, 3M, DuPont, MCI, Xerox, Caterpillar, Kodak, United States Steel, Honeywell, Allied Signal, and the list goes on. These industrial giants have the time and the money to fill out ATP applications, but also have the money to fund these projects on their own.

I also take this opportunity to commend Secretary Daley for initiating a review of the ATP program. As he and I have discussed, I believe this review is long, long overdue, and I appreciate that it was instigated very early on in his tenure. The Secretary recognized in his recent report on the program that the question of whether huge corporations should participate in ATP grants to the exclusion of some smaller ventures is a legitimate concern and one that he is concerned about as well. As a result of the Secretary's review, he has proposed changes in the match for single-applicant-large companies to a 60–40 match from the current 50–50 and encourage joint ventures over single applicants.

That is a laudable start, but, my goodness, that is just not far enough when we are talking about a company that has $2.5 billion in revenues, huge companies. They can afford to do this on their own. It just doesn't go far enough. At most, this would reduce the amount a large company will receive in grants by $65,000 a year, and that is not much of an incentive for companies like IBM with revenues of $76 billion annually.

To its credit, this year the Department of Commerce requested input from the public on the ATP. Among the public responses were, listen to this one:

ATP awards large companies even though a smaller company, as a single applicant, may have a better technical and business proposal. In some cases, the large company tries to get the award in a new research file just to shelf the idea and prevent someone from doing the research because it will compete with its existing markets.

Another one:

ATP should not be a time-consuming, expensive proposal preparation contest which it is now.

Another one:

ATP does not provide much assistance for individuals or shoestring startups which need assistance most.

While I am not offering an amendment to kill this program today, I do have grave concerns about it primarily because I believe there is ample private capital for good ideas. Last year alone, the venture capital industry pumped more than $10 billion into new ventures. Last year, companies raised more than $50 billion from initial public stock offerings. The top four winners of ATP grants invested more than $20 billion of their own corporate resources on research and development. We are talking about a total program, the total ATP program of right around or under $300 million.

I don't think I have the support this year to eliminate this program on an appropriations bill. Many of my colleagues believe that would be more appropriate for the authorizing process, which I think would be as well and a good place to do it as well.

So let me reiterate, today I am not offering a killer amendment. This isn't even an amendment to reduce the funding of this program. It does nothing to the funding of ATP. I am offering an amendment which will make a small change in the program to better enable it to meet its mission of providing funds for high-technology research without replacing private dollars.

I want to note something else, Mr. President, if I can, about people applying for ATP grants and companies that are applying for ATP grants. This is according to a GAO report when they were looking at whether people try to find these first outside the Government. This is the GAO:

When we asked if they had searched for funding from other sources before applying to ATP, we found that 63 percent of the applicants said they had not—

Sixty-three percent—

[and] 65 percent of the winners had not looked for funding before applying to ATP.

In other words, they are going first right to the Federal Government, to the ATP program. These are huge corporations with over $2.5 billion in revenues, the only ones we are targeting, and they are saying, ''Let us take it there first.''

This is a simple amendment and will help the small entrepreneur. It will bring some sanity back to the process. It will start to address the issue of corporate welfare, and this is a perfect case.

So, Mr. President, I think this is an appropriate amendment. At the appropriate time, I will urge its adoption and ask for the yeas and nays. I yield the floor.

The PRESIDING OFFICER (Mr. KYL). Is there further debate on the amendment?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am reminded of a little ditty they used to have on the radio each Saturday morning for my children: ''All the way through life, make this your goal; keep your eye on the donut and not the hole.''

The distinguished Senator from Kansas is really, with this amendment, trying to reduce it to a corporate welfare program. The goal, and the eye ought to be on it, was commercialization of our technology, not research. In fact, the research arm of the Defense Department, DARPA as we call it, which has billions of dollars that come over—Greg Fields, working with the National Institutes of Standards and Technology—this is now back in the late seventies because I authored this particular program—in the late seventies in talking with Mr. Fields and the authorities at the National Bureau of Standards, at the time we called it, found that we had all kinds of technology backed up in research at the National Bureau of Standards on the civilian side that was not being commercialized. In fact, what they call the rapid acquisition of manufacturing parts—it is a wonderful type program—was developed and came really out of the Bureau of Standards. A ship broke down in the Persian Gulf that was 25 years of age, and they weren't making the parts anymore, so the ship couldn't function. It took several months or a year to get the part back out to get the ship moving again and everything else.

The computerization and manufacturing at the defense level of all parts are immediately on the board. Within days, they knew how to punch the computer, get the particular manufacturer, get the part back and going again. That came out of the Department of Commerce that my distinguished colleague has been bent on trying to abolish.

Back to the commercialization. In the late 1970s, down in Houston, TX, they developed the superconductor, and right to the point, with the research initiative, these particular scientists won the Nobel Prize. But the actual commercialization was caused by our Japanese friends who correlated some 22 entities and immediately started developing and commercializing it. Oh, yes, the American scientists won the Nobel Prize; the Japanese entrepreneurs won the profits.

We are going out of business in this country. This has nothing to do with small companies or large companies. The staff, of course, has provided me—but I do not want to get into that because I support DARPA very much. But if we had this particular amendment and it took, then we could put it to DARPA and all other research over in the Defense Department, and then we could grind research to a halt. Because the reality is that the larger companies do have the better research entities. And the larger research companies also have the stock-market-turnaround, get-in-the-black, get-your-stock-increase kind of pressure.

Talk to the CEO of AT&T, a multibillion dollar company. One of the largest corporations ever in the world is in trouble because the chairman that they had momentarily, barely a year, could not turn it around and get it into the black and get it going. He is gone.

Now, Senator Danforth and I, working on this commercialization, said now we are not going to have welfare and we are not going to have pork. So we put in unusual safeguards which this Senator from South Carolina has had to fight personally to maintain.

One safeguard coming with the particular research endeavor was that we had to have this particular request approved, bucked right over to the National Academy of Engineering, and saying, ''Wait a minute. Does this really contribute to the Nation's particular research?'' We did not just want company research to increase the profits of a particular company; we wanted a research endeavor that meant something to the basic research technology advancement of the United States of America. This is a national program; it is not a welfare program; it is not a corporate-profit program.

So this is No. 1. The corporation has to come with at least 50 percent of its money. They have to have upfront money they are willing to put in, then bucked over to the National Academy of Engineering for its approval on a national basis, then going back for a third particular test of competition of which were the most deserving because this has been very, very, very limited.

Look at our agricultural boards. They have multimillions in there for California raisins and ''Don't drink the wine before its time,'' Gallo, and all of those other things. The farm boys around here know how to get things done, but the technology boys are out researching and making money and continuing to research. Then, like GE coming through my office and saying, ''We don't have time to turn this particular around,'' so go sell it to the Saudis because they have the money and they can develop it.

Mr. President, 15 years ago, I put in a bill to cut out the quarterly reporting. That is one of the real bad devices—all this quarterly reporting. The market is going up; the market is going down. Greenspan says something, it goes up billions, it goes down billions, costs or whatever it is. We have to understand the global competition has to steady the boat in this land financially. One of the great initiatives to have it steadied is to do away with quarterly reports.

We all fault the American entrepreneur and corporate leader in saying, oh, he won't invest in the long range. Our Japanese competition, they know how. In Korea, Japan, the competition in the Pacific rim, they get long-range planning. The American corporate head cannot do it under this structure. He has to get in and somehow take the best profits, the bigger profits, go for it. You might have a technology, but if it takes over 3 years, forget it, ''We don't have time. We don't have the money. Sell it to somebody else, get a joint venture with the Germans or the Brits or whatever it is.''

We are exporting our technology. And the security of the United States of America depends on our superiority of technology. We do not have as many Americans as they do Chinese. Someday we are going to find that out, Mr. President.

Running around with a little boat in the Taiwan Straits, I was on one of those aircraft carriers up in the Gulf of Tonkin 30 years ago. We did not stop 30 or 40 million little North Vietnamese coming down the Ho Chi Minh trail. I do not know how, with a couple of these boats in the Straits of Taiwan, that we are going to stop 1.2 billion

Chinese. So we better sober up in this land, emphasize our technology, get it developed. That is the thrust of the Advanced Technology Program.

So we had all the tests. Like I had commented, I had personally taken it on over on the House side. We had a distinguished colleague over on the House side that every time we got to the State, Justice conference, he wanted to write up one of these particular programs for himself. I said, ''This is not corporate welfare. This is not pork. We're going to stand by.'' We held this bill up in conference for weeks on this one particular point, that it was not corporate welfare, it was not pork. It was a studied program to commercialize, develop, and commercialize the technology that we could get financed. It is a solid program with strong bipartisan support.

Mr. President, I remember when we had the particular—if you can remember. I can hardly remember when the Republicans were in a minority, but there was a day. It was just about 4 years ago. They had a Republican task force in the U.S. Senate at that time chaired by the distinguished majority leader, Senator Dole. They had over a dozen Senators endorse this program as it is, which includes, of course, our distinguished majority leader, Senator LOTT; the former Secretary of the Navy, Senator WARNER; the chairman now of our Appropriations Committee, Senator TED STEVENS; the chairman of our Judiciary Committee, Senator HATCH—you can go right on down the list—the chairman of our Budget Committee, Senator DOMENICI; and others.

I just want the distinguished colleague and friend that I have here from Kansas to understand coming over from the House side with that Walker disease—we had a fellow over there named Bob Walker from Pennsylvania who just took on a personal kind of vendetta against doing anything about commercialization or development of technology or research except in his district. He held up the authorization for this particular measure for several years. Now it has been passed over on the House side. I thank the distinguished Republican leadership for passing that authorization bill and do not want to stultify it now by resolving it into big-little, 2½ billion or whatever it is.

I can tell you here how they move on these large entities here. They move on and do not put the money to it. They sell it. I can give you example after example where I have worked with them in this particular field, and they come by the office and say, ''I am headed to so and so just for a joint venture. I will just take it to Japan and get a 49–51 deal. At least I can get my money back out to do some more research.'' But this has been draining, veritably, the security—not just the technology, but the security—of the United States of America.

It is a well-conceived program, well-administered, just updated by our distinguished Secretary of Commerce. He has come along. I do not have the exact breakdown. I wish I had the Fortune 500 approach. We know about half of it goes to small companies. I have no objection to it going to small companies. I just have a distaste and would have to vote against that kind of division because if this kind of thing sells, then we are going to begin the big-little and it is really going to miss out on some very, very valued technological programs.

I have example after example that we could get in. I see other Senators wanting to speak. But the point here is, big, little, small, or otherwise, you have to first put up some money, at least half of it. You have to have it reviewed nationally. Some of the smaller companies, they are engaged in research, but they are not engaged in basic research. The smaller companies, by their very nature, only have the moneys for their particular endeavor, their particular profits. Therefore, they do not come. We tried to get the small companies going because that is where jobs are created, trying to get small business. We have a specific program for that. We have in here the Small Business Administration program in Senator GREGG's bill right here and now. So we take care of that when it comes to small business.

I know the administration, under Secretary Daley and his particular study here that we could put in the RECORD, says let us give even again more emphasis to it and require more than the 50 percent from the larger corporations. That particular guideline would be good. I would have hoped that the gentleman would have come with a sense of the Senate to confirm that guideline. But to actually put in law this initiative begins to develop in the minds of everyone that this is a welfare program and what we are trying to do is finance research.

We are not trying to finance research at all. We are trying to finance the development and commercialization of already established research. That really comes for the more affluent larger corporations. They come in with the great innovations because they have basic research. The small company—incidentally, I do not know that I have any—of course, down in my home State it is not welfare. I do know this.

In the debate, it ought to be understood that I had my textile folks come to me and they said that they had a technology program and they knew that I had been the father of the Advanced Technology Program, the ATP, and the manufacturing extension centers. So they said, ''We need your help over at Commerce to get this particular''—it had a computerization of the supplies coming in and going out so they would not end up with a warehouse full of bluejeans that they could not sell, whatever it was. Mind you me, I said, No. 1, ''I'll not call over there.'' I never have called over there to talk to a Secretary about it. ''This is not pork. It's not corporate welfare.'' I told that to my own textile leaders.

Mr. President, you know what they did? They went out to Livermore Labs, through the Energy Department, and got started a $350 million program in textile research. You see, with the closedown, fall of the wall and the closedown of some of the defense research and what have you, to keep Energy's budget livable and alive, they said, ''Sooey, pig. You all come. We've got money. Anybody that can do it, we are ready to go.''

That is what happened. They did not qualify at the National Academy of Engineering for this computerization. It was an advancement. It would have helped out my home industry and that kind of thing, but it had nothing to do with the overall commercialization of a national kind of research unique to the security of the United States itself. So it was turned down.

So we ought to be looking now and do not start this particular kind of initiative for defense, because we have the large companies here that do all—we put this under research in the Defense Department. United Technologies, Lockheed Martin, Texas Instruments, IBM, MIT, Hughes Aircraft, Carnegie Mellon, Northrop Grumman, Loral, Honeywell, GE. I can go down the list of millions and millions and millions. If this particular applied, I can tell you you would not get any defense research, you would not be getting the F–22, the advanced plane, and others of that kind that have come on now to maintain the national defense of the United States.

So I hope that colleagues will understand the genesis of ATP, the practical reality of financing and developing and commercializing the research. The large corporations who developed the unique research in this land of ours can make more money elsewhere, and they have been doing it like gangbusters by exporting it right and left everywhere, and we have been losing out. And we are wondering why we still have a deficit in the balance of trade.

We have gone and manufactured the actual production and commercialization. We have gone from 26 percent of our work force, 10 years ago, and manufactured down to 13 percent. Oh, yes, we are getting the software, we are getting the wonderful jobs at McDonald's and the other hamburger places and the laundries. But the actual production and high-paying jobs are going elsewhere. We are exporting them as fast as we can. We ought not to toy around with the solid nature of the Advanced Technology Program. It is not pork. It is not corporate welfare. The distinguished Senator has come up with an arithmetic formula, and if we begin to apply that to research in America, we are gone goslings.

I yield the floor.

Mr. GREGG. Mr. President, I ask unanimous consent that Tom Wood, a fellow for Senator FRIST's office be

given access to the floor during the debate of the Commerce, Justice, and State appropriations bill, and the same applies to Floyd DesChamps, a detailee from the Department of Energy with the Commerce, Science, and Transportation Committee.

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

Mr. GREGG. Mr. President, I rise in support of the amendment of the Senator from Kansas. The ATP issue has been one of the more contentious issues that we have dealt with within our committee. Last year, it was more contentious than this year because of an agreement reached between the White House and the leadership of the Senate and House. The House and Senate and the White House agreed that this program would be funded. I suspect that they agreed it would be funded because of the strength of the arguments made by the Senator from South Carolina, but I think most people appreciate the fact that I have, since my tenure on this committee, opposed funding for this program. It was over my strong objection that this decision was made. But it was made and I have agreed to live by the budget agreement and, therefore, the money for ATP is in there.

But if you acknowledge ATP even as a program that should proceed forward because of whatever arguments we are inclined to accept, it is very hard to understand how we can justify using a program, the purpose of which is to encourage the development of technologies which might not otherwise evolve. That is the key here—they might not otherwise evolve. It is very hard to justify such a program being used to fund Fortune 500 companies' research initiatives. The fact is that Fortune 500 companies, companies with over $2.5 billion in sales, have the capacity to pursue any technology they wish to pursue if they determine that it has some value, if it has some economic value and if it is going to produce some sort of worth to them. And it's very illogical to presume that those companies would not pursue those technologies if they felt there is a value and they have the wherewithal to do it. You have essentially created a piggy bank into which these companies can step or put their hands into if they desire to pursue a technology, which they probably would have pursued anyway if they had the financial wherewithal to do it. But in this instance, there are Federal dollars available, so they say let's use the Federal dollars instead.

I think it is much more logical to focus this fund on those entrepreneurs and entities which do not have that sort of flexibility, do not have in-house the capital wherewithal to fund whatever research they desire. That is why I believe we should limit access to these dollars to the smaller companies. And smaller is a relative term here. We are talking about companies up to $2.5 billion of gross sales. That is a pretty big entity. I suspect there are a lot of major companies that fall into that category. In fact, within the State of New Hampshire, I am not sure how many companies would have more than 2.5 billion dollars' worth of gross sales; it would not be many. We are retaining the availability of this program to the vast majority of corporate America and to all of the entrepreneurial world.

It is not as if we were handicapping for purposes of this exercise. In fact, there isn't enough money to go around as far as applications are concerned. There are a lot of applications that are not approved. In fact, the Senator from South Carolina cited one in his own State. It just seems much more logical to me that we take this money and, rather than giving it to folks who have the capacity to pursue this research independently and on their own and are simply using the Federal dollars to replace dollars that they would spend anyway, that we give it to companies—or make this money available to entities that do not have the financial wherewithal to pursue these programs; or if they do have it, they would be under more stress than a company that has 2.5 billion dollars' worth of income.

So the amendment of the Senator from Kansas makes an immense amount of sense. It is not a dagger in the heart of this program. In fact, I think it is a strengthening amendment for this program. It will significantly improve the nature of this program. And, really, I am a little bit surprised at the intensity of opposition to it because it appears to be an effort to logically and fairly approach this program, rather than just eliminate it, which would be something that many of us would support also.

So I think the Senator from Kansas has brought forward an excellent amendment. I hope that we can pass it. I will certainly support it.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I want to rise in response to some of the statements made by the Senator from South Carolina. I deeply appreciate his heart, of where it is about what we need to do to make America a stronger economy, to keep jobs, growth, high technology, and jobs growing and prospering in the United States. I think his heart is clearly in the right place and he wants to do the right thing.

I just think in a nation this big, with an economy this size, with the dynamism that we have in this country, you can't control it out of Washington. That is why the President pronounced, over a year ago, that the era of big Government is over. It seems to me that was an admission that things have changed to the point that you just can't direct all things, and all wisdom doesn't come out of Washington.

This program is one of those that we are talking about in that particular area. You are basically talking about a program here where you are going to pick winners and losers out of Washington. We have an application process that takes place here. You apply for this and give us your good idea, and we in Washington are going to think about it and see if we think you deserve to get this money or not. If your technology is one we are interested in and if we think this technology is good for our future, then we will decide to give it to you. We will decide those sort of issues from Washington.

I am not even talking about the overall program here. As I mentioned, and as Senator GREGG has mentioned as well, this is actually a strengthening amendment. We are just saying, if you are a Fortune 500 company and have revenues of over $2.5 billion a year, we are not going to make this program available to you. You are going to have to be, at least, a startup company, because the larger companies do have lobbyists here in Washington, as the Senator from South Carolina knows. They are always coming around looking for things for their companies, as they should be. Many of their companies take it because their competitor takes this. Let's remove that as an opportunity and remove this area of corporate welfare, which truly is corporate welfare.

Now I would like to clear up a couple of other points on this, if we could. One is that I am afraid, too, that some of these programs qualify in the area—we put out a big press release saying this program is going to solve all the problems of technology drifting abroad, and we are going to solve all of the problems of not having good, high-wage, high-skill jobs in the United States because we have the Advanced Technology Program. This will solve all of those problems. This will do it. I think we suffer here from a concept of having a big press release and a very small program to answer that.

Listen once again to the figures. We are talking about a program of $200 million. That is a large sum of money, but if you look at what venture capital put into new startups last year alone, which was $10 billion, this is 2 percent of what was put into this from just venture capital. And I add initial public offerings on to that, where people go to the marketplace to raise capital for a good idea, and that was $50 billion. We are talking about less than 2 percent in this particular program.

If we really want to help business in America—which I think the Senator from South Carolina clearly wants to do; he wants business to stay here in America, to grow in America, and he wants business to prosper—well, then let's do some things that would actually help business: cut taxation, regulation and litigation and manipulation out of Washington. Let's cut capital gains tax rates.

I was just in the Silicon Valley, one of the key areas in this country where startup companies are flourishing with new ideas and products that are going

global rapidly. I was there and talking about the Advanced Technology Program. I have a letter, as I mentioned, signed by over 100 CEO's of startup companies saying, ''Do away with this corporate welfare.'' That is what they called it. These are the people who, arguably, this program started for. They said:

> We don't want you directing it because you move too slow; Washington moves too slow in trying to figure out what is taking place in the global marketplace. It can't react fast enough; it can't figure these out. You are going back and basically taking taxpayer dollars from the startup companies to fund more stodgy, slower moving items, many of which end up going to the private market. If you want to help us, cut the capital gains rates; do something about the litigation; as we try to raise capital in this marketplace, do something about the regulatory regime where we have 50 different entities regulating us. Much of that is needed, but can you make it more simplified? What about all the manipulation where you are trying to direct, by the Tax Code, everything we do every day.

Then they gave a great example which I thought was wonderful. There is a little startup company in the Silicon Valley that raised over $300 million in capital. That is more than the Advanced Technology Program. We are talking about $200 million in this program. They raised that much. I was speaking to a group of people about 5 miles away from this startup company that raised $300 million. I was talking to a crowd of about 100 people there. I asked them, ''Have any of you heard of this company?'' I gave the name of the company. This was a group of 100 people, 5 miles a way. This company has actually raised more money than is in the ATP Program. One person there out of the 100 had heard of it. That is a substantial amount of money, but it is not large compared to the amount of capital being raised and is needed.

If we really want to do something, let's help the overall atmosphere and not try to direct it. As I want to point out yet again, look at what we are talking about with this amendment. We are saying that if you are a Fortune 500 company, if you have over $2.5 billion in revenues, we think you can find enough capital on your own to fund ideas you think are good. Let's target it for the startup companies. That is what we are supposed to be after with this. These large companies, when they have an idea they want to pursue, have the ability to be able to pursue it. That is how you deal with this issue. If we want to really help corporate America, we have a great chance coming up to cut capital gains and deal with litigation reform, and we can actually do something real.

So those are my responses. I know the Senator from South Carolina has his heart in the right place and his concepts are clear in his mind. If we really want to help them—and I have been there and talked with them—target this and cut it away from the Fortune 500 companies.

Mr. President, I do ask for the yeas and nays on this amendment, and I believe there is some discussion about holding this vote until 2:45.

The PRESIDING OFFICER. Is there a sufficient second?

It appears there is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that at 2 p.m. the Senate proceed to a vote on or in relation to the Brownback amendment No. 980, with no amendments in order to the Brownback amendment prior to the vote.

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

Mr. HOLLINGS. Mr. President, once again, we tried to go to the fundamental that a $2.5 billion company does not have the ability to develop it or to pursue it or to commercialize it.

Now, why doesn't it have that ability? I emphasize, of course, the way the market and the financing of projects works. You have to have a quick turnaround. A lot of good, fundamental research technology is not developed and not commercialized in the United States for the simple reason that the market financing infrastructure does not allow it.

If you were chairman of the board, then we would see how long you last unless you turn around and get your stock up. And that is the name of the game in America. And they all have to play it. When they get a choice of anything beyond 2 or 3 years, then obviously the board members, everybody wants to look like good guys and making money and everything else for the stockholders. The pressure is there to go ahead and export it, get an arrangement, a split arrangement with any of the other countries that would want to try to develop it. That is our global competition.

Specifically, right here, in Business Week:

> To stay in the game, Singapore is stepping up its industrial subsidies.

In September, the Government announced it will pump $2.85 billion over the next 5 years into science and technology development including research and development grants for multinationals.

No small business. I am trying to get my friend from Kansas to understand we have got the Small Business Administration. We take care of small business. We favor small business. But what we are looking at, to keep the eye on the target, is the development and commercialization of technology. And small business, if they went with good research that could really be proven to the SBA, they would get total financing right now. They would get it underwritten under the SBA technology grants. We worked that program far more than the little $200 million in this particular endeavor. They have over $800 million in grant authorization for small business.

Please, my gracious, let us go with it. Global competition is such that the smallest of the small competitor, Singapore, recently helped fund a $51 million research development facility for whom? For Sony, a $2.5 billion corporation:

> Last month Lucent Technologies received a grant for a new communications research and development endeavor.

I could go on down reading these articles. I wish everybody in the National Government would be given a book by Eamonn Fingleton entitled ''Blind Side.'' We have all been running around and talking about the bank problems in Japan and, oh, Japan has all kinds of problems, and they really have their back up against the wall; they are not any competition any longer.

The fact is, Mr. President, last year while we had a 2.5 percent growth with the market booming. A rebirth in America, we have the strongest economy, Greenspan says he's never seen such a thing, 2.5-percent growth, Japan had 3.6 percent growth.

The name of the game is market share, market share. They are copying it off right and left. And at this moment, this very moment, for example, the great big automaker, United States of America, exports less cars than Mexico. Mark it down. You are down there in that area, Mr. President. Mexico exports more automobiles than the United States of America.

I just helped break ground for Honda in Timmonsville, SC. Who exports more cars than any other entity in America? Honda; the Japanese. Not General Motors, not Ford, not Chrysler. Honda.

When are we going to wake up to what's going on? Market share. If you read Fingleton's book, you go to the Ministry of Finance. Don't worry about MITI, go to the Ministry of Finance and you get your financing, your large corporations.

Now, please, my gracious, I am for the little man. I am a Democrat. Heavens above. We know the large corporate welfare crowd. But we have been for the little man against hunger. I just voted to take $5 million off administration in the Department of Agricultural budget to get more lunchroom programs. So don't talk about corporate welfare and try to identify. We are talking about global competition, which, frankly, the White House doesn't even understand.

You know why I say that. We had a course on Tuesday on NAFTA, North American Free-Trade Agreement, where we brought in Mexico in 1994, and we were going to have a sort of update on how it was doing, whether it was a success or not. They wouldn't even send an administration witness to the senatorial committee, and that's why they called off the particular hearing. They are embarrassed that they said we would create 200,000 jobs. We have lost 300,000. I will show you the Department of Labor statistics. We have lost in textiles and apparel 231,000 alone. So instead of increasing it in one direction, we have decreased it in the

other direction; we have been exporting fine, good-paying jobs in the particular industry that predominates my own State. They said, well, we are going to increase trade. We had a plus balance of trade of $5 billion and we have gone to a $16 billion minus balance.

And they say exports, exports. Well, exports are up. We are sending parts down there to be assembled into automobiles and the good automobile manufacturer is moving to Mexico. You would, too. I do not blame them. I blame us, you and me. This is the policy. In manufacturing, a third of your operating costs goes into labor, to payroll, and you can save as much as 20 percent by moving to an offshore, or down in Mexico, low wages and little or no worker or environmental protections.

When I say no particular protections, colleagues are running around on this Senate floor saying you have to have a minimum wage, you have to have clean air and clean water and plant closing and parental leave, Social Security, Medicare, occupational safety from hazard, and up and down the list. Whoopee, yea, we are great. And then we put in a policy that says you don't have to do any of that. You can go offshore for 58 cents an hour. Did you see the program on Mexico just last night on public television?

Come on. We are losing the jobs right and left. We are losing our technology right and left. Eamonn Fingleton in his book—and I called him just the other day because he has updated it now with a paperback—projected by 2000 we would be blind-sided. Today, Japan, a country as big as the State of California, manufactures more than the great United States of America. It has a greater manufacturing output. And otherwise by the year 2000 it will have a greater gross domestic product, a larger economy, and I will bet you on it. And I want them to come here and take the bets because I believe he is right. You can just see how the market share goes. You see how the GDP goes and everything else of that kind.

We are going out of business the way of Great Britain. They told the Brits at the end of World War II, the empire was breaking up, they said don't worry about it. Instead of a nation of brawn, we will be a nation of brains; instead of producing products, provide services, a service economy. Instead of creating wealth with manufacturing we are going to become a financial center.

And England today, Mr. President—I have the distinguished President's attention—England, the United Kingdom has less of an economy than little irrelevant Ireland. Mark it down. Read the Economist just a month ago. Yes, Ireland, now bigger, economically than the United Kingdom. All they have is a debating society. London is a downtown amusement park.

Come on. Are we going to head that way as we go out of business, continue to appropriate again more and more moneys and finance our campaigns with these false promises of ''I am going to cut taxes.'' Oh, the Post is running around: ''Are you for cutting taxes? Yes, I'm for cutting taxes.'' You cannot cut your and my taxes today without increasing our children's taxes tomorrow. We have deficit financing.

We will get into that debate again when they bring the reconciliation bill over. It is not the Chinese trying to get into our elections. If they want to get into our elections, do as the Japanese do. Pat Choate wrote the book, ''The Agents of Influence,'' 7 years ago. One hundred Japanese law firms, consultants here in Washington paid over $113 million. Add up the pay of the Senators and Congressmen, the 535 Members of Congress, and boy, oh, boy, you get, about $71.3 million. The Japanese in Washington by way of pay are better represented than the people of America.

When are we going to wake up? Tell the Chinese, ''For Heaven's sake, to do the same thing as the Japanese. Give it to a lawyer. Tell them to come around and find some lawyers.

But, no, we want to turn this into corporate welfare, show that we fought against corporate welfare. Absolute folly. There is no corporate welfare at all in this. It is, by gosh, trying to commercialize technology and we will not face up to the reality. We are going out of business and now we want to say to those who do the general research, the unique research, that there is no reason to try and get into anything marginal that is going to take over 3 years to develop. Sell it, move on to the next thing. Let us continue the outflow of business, the outflow of jobs, the outflow of technology, and the outflow of our security. And everybody comes around and says that's a good idea.

I think, to the President's credit, it ought to be emphasized that he put this program down as a quid pro quo in the leadership agreement. Now, the agreement has been on both sides of the aisle, the Democratic and Republican agreement, the White House and the congressional agreement that the Advanced Technology Program would be funded at this particular level and in the manner in which it is currently funded. What we are being asked for in this particular amendment is to violate that agreement. We are running right into a veto situation on a small matter while trying to make it appear as corporate welfare. The opponents of this program don't tell you about the National Academy of Engineering. You show me another grant program that has to be reviewed that way.

I wish we still had Senator Danforth here because he and I worked on this thing over the years to develop the bill's credibility, but now we are going to start tearing down its credibility, by changing it into a small business program for those small companies that can't afford to really commercialize their technology. They can't afford to engage in general research, or in unique research to begin with, on account of its small nature. They just don't have the labs and facilities that the large companies do. But we want to act as political animals up here, pollster politicians and so we are for tax cuts, when we go up and continue to increase the debt.

We have been reducing the deficit each year for 5 years. Now we are going to use the public till to run around and say we are going to cut revenues while we increase, and we are going to have to go out and borrow the money to do it, because we are in the red. We are not in the black. So we will take that multitrillion-dollar debt and interest costs of $1 billion a day and increase that for nothing.

In the last 16 years we have increased the debt from less than $1 trillion to $5.4 trillion without the cost of a single war. Mr. President, in 200 years of history with the cost of all the wars we have not even reached a trillion. Now we jump to $5.4 trillion and instead of $75 billion—$74.8 billion, to be exact, we are going to up to $365 billion, $1 billion a day. That extra $285 billion, we are spending it for nothing. And there are all these fellows talking about pork and welfare and getting rid of the waste, and using that rhetoric for their reelection next year.

''I am against taxes, I am against the Government, get rid of the Government.'' That's the big hoopla they have going on, on the other side of the Hill. They are now tasking the leadership of the contract to get rid of the Department of Commerce, to get rid of the Advanced Technology Program, to get rid of all the Government that pays for itself and keeps us secure and keeps us superior as a nation. So now they are going against jobs, against the security of the land, and for corporate welfare, based on this amendment. They say, just on account of the $2.5 billion measure, that ''the corporation has the ability to pursue it,'' their exact words. Yet, everyone knows that the CEO's do not have the ability if they are going to be a good corporate head. They are going to put their moneys elsewhere because where the turnaround is, there also is the competition, and they also know that the other governments are financing not only the research but development and taking over the market share.

We are going to holler, ''let market forces, let market forces''—well, let's look at the market that we developed here in the National Government, through measures such as minimum wage, plant closings, clean air, clean water—which we all vote for, Republican and Democrat. But the companies say, ''You don't have any of that in global competition.'' In addition, they are financing it like we finance research for the aircraft industry.

They have learned from the United States. We finance Boeing, we are proud of them. They produce and ship planes globally. Thank God we still have one industry. Now, however, we

have shipped the technology on the FSX to Japan, and Boeing has had to move the parts manufacturing into the People's Republic of China. We are beginning to lose that segment of manufacturing. We are losing the automobile industry. Now we are going to lose the aerospace industry.

They told me years ago, ''HOLLINGS, what's the matter with you? Let the developing nations, the Third World, make the textiles and the shoes and we will make the airplanes and the computers.'' Now our competition in the global competition is making the airplanes and the computers and the textiles and the shoes and we are running around here jabbering about, ''free trade, free trade, free trade, let market forces, let market forces, let market forces,'' and don't have any realization of the actual market forces that we, as politicians, created.

I hope this amendment will be defeated in consonance with the overall agreement of the leadership in the Congress and the White House on the one hand—and defeated based on common sense and competition on the other hand.

I know my distinguished colleague on the other side of the aisle, the distinguished Senator from Tennessee, Senator FRIST, has been leading now, in our committee. He has been holding hearings, and has been providing leadership on addressing the issues relating to the Advanced Technology Program. I know the others that are interested in this program, including those that I have listed—trying to emphasize, by the way, that this effort is bipartisan. Senator Danforth and I worked this out 10 years ago, and the program is working. It is working well. We need more money. Thousands and thousands of qualified grants still don't receive funding.

I asked, I say, does the Senator from Kansas have the documentation where small business really applied but the big companies got the award? If that occurred we would have it here. He said these little businesses are being denied. I know the Commerce Department, Secretary Daley. I know the administration of this particular program and they look for the small business in order to sustain the credibility and support of the program because since its beginnings, critics have been watching the Advanced Technology Program closely for the simple reason they don't understand. They think, ''Well, get rid of the Government. Find out where the pork is. Find out where the welfare is. Characterize it as welfare. Say you have these big Fortune 500 companies, they have $2.5 billion so they can do it.'' And they don't understand what they are talking about.

It is a sad day when we even propose an amendment of this kind, because it shows that we really don't understand competition, although we keep running around like parrots, ''Competition, competition, competition.'' We are the ones with these kind of amendments that destroy competition.

We are against welfare but we are the ones with these kind of amendments that create welfare.

I yield the floor.

Mr. GREGG. Mr. President, we are awaiting other Members bringing amendments to the floor. I appreciate the enthusiasm and energy of the Senator from South Carolina in his spirited defense of the ATP program, which he, as he has mentioned and which will be generally acknowledged—he is the father of.

I would say we are going to have a vote on that at 2 o'clock, and at that time I hope Members would support the amendment of the Senator from Kansas because I believe it makes sense and it is a strengthening amendment to the ATP program.

So, at this time I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BINGAMAN. Mr. President, I want to speak very briefly in opposition to the amendment offered by the Senator from Kansas, Senator BROWNBACK, as I understand it.

That amendment, if it were adopted, would essentially prohibit the Advanced Technology Program, which is administered through the Department of Commerce, from allowing participation of large companies.

Let me give you my own understanding of how the Advanced Technology Program works. I think it has been an extremely useful program. It has helped to keep the United States at the forefront of technology development and high-technology industry development in the world, and, to a significant degree, our leadership in that arena, in that area of high technology, is the reason why we enjoy the strong economy we enjoy today.

So I believe the Advanced Technology Program is useful. It has been a great help to many companies. It has been a great help in helping us, as a country, create jobs in the industries of the future.

In order for that program to succeed, though, we need to be sure that taxpayer funds are provided, and they are only a very small portion of the total funds that go into these technology development activities, but they are a catalyst. They bring together companies. They bring together research institutions to do this important work. Those funds also provide a bridge between the Government-funded research and the private-sector research, so that we have national laboratories, such as the two in my State, Los Alamos and Sandia, and we have many large and small companies working together to make breakthroughs in technology.

It is essential, if this program is going to succeed, that we allow the Advanced Technology Program to put the funds where the most good can be done and we not begin to structure this program as though it was some kind of a jobs program or as though it is a doling out of funds to different corporate interests. It is not that. It is an effort by the Federal Government to stimulate cooperative research in areas that show great promise.

Sometimes the people doing that work are in large companies. Sometimes there are a few individuals in a large company who are doing very important work and can benefit from collaborating with researchers in small companies or researchers in national laboratories or researchers in universities around this country.

I think it would be a great mistake for us to begin to limit the companies that can participate in the Advanced Technology Program. To do so would begin to move us down the road toward mediocrity in the technologies that are developed through use of these public funds, and I believe that is a very major mistake.

I know that there have been criticisms over the past that any time the Federal Government invests dollars in research and development activities that private sector companies are engaged in, that somehow or another that is corporate welfare. I strongly disagree with that point of view. I think the taxpayers are well served if we can invest in developing technologies that will create jobs, will produce revenue, will produce additional tax revenue in the future and will keep our economy the strongest in the world.

I very much hope that the Senate will reject the Brownback amendment when it is finally voted on, and I hope we will allow this Advanced Technology Program to continue to be the great engine of innovation and technology development that it has been in recent years.

Mr. ROCKEFELLER. Mr. President, I rise to urge the Senate to reject the amendment offered by Senator BROWNBACK that is designed to weaken a program absolutely critical to the country's technological strength. I thought that the fact that this bill contains the $200 million in funds needed for the Advanced Technology Program was a sign that we could finally get past a debate that is nothing but a distraction and a danger to our own economy.

I stand here today just as I did last year and the year before to defend this program—this investment in America's economic competitiveness. As I, along with many others in this Chamber, have stated before, this program supports American industry's own efforts to develop new cutting edge, next-generation technologies—technologies that will create the new industries and jobs of the 21st century.

Let me remind my colleagues that ATP does not, and I repeat, does not

fund the development of commercial products. Instead, this program provides matching funds to both individual companies and joint ventures for pre-product research on high risk, potentially high payoff technologies.

The Senate should give credit to Secretary of Commerce Daley, and let us work with him through the authorization process to improve the program. Secretary Daley just met his pledge to conduct a 60-day review of the program to assess the ATP's performance and the criticisms that have been levied against it.

Sure enough, his review took into account comments provided by both critics and supporters of ATP. The Department of Commerce notified more than 3,500 interested parties, soliciting comments about ATP. In fact, Senators LIEBERMAN, DOMENICI, FRIST, and I joined together and provided 1 of the 80-plus comments the Department received.

I commend Secretary Daley for the job he did in undertaking this review. As we all know, there is not a department or program that can't be improved. And as a long time and avid supporter of ATP, I believe that after 6 years of operation, experience shows us some areas that indeed can be improved. This review has done just that. I agree with his suggestion to place more emphasis on joint-ventures and consortia and more emphasis on small and medium-size single applicants. I also support his proposal to shift the cost-share ratio for large single applicants to 60 percent, and I will further review his suggestions to encourage state participation.

As ranking Democrat on the Science and Technology Subcommittee, which has oversight of the ATP, I look forward to working with my colleague Senator FRIST to review this report and to make any necessary legislative changes during consideration of legislation to reauthorize the Technology Administration.

Secretary Daley's review could not have been done at a better time. As I stated, this program has been in existence for 6 years, and this review was conducted on those 6 years of experience. The proposals set forth in this review strengthen a very strong program that is one of the cornerstones to the Nation's long-term economic prosperity.

Some of us in the Senate, Senator HOLLINGS, Senator BURNS, Senator LIEBERMAN, and myself, to name just a few, have been fighting every year for the past 4 years to keep the ATP alive. We welcomed the Secretary's review because we knew that it would validate the arguments we've been making for the past 4 years. A new element also is emerging in this debate that is validating what we have been saying. That new element is the success stories that are finally emerging. The mere ideas receiving grant money 4, 5, and 6 years ago are now technologies entering the market place and enhancing our economy and our livelihood.

Let me close with some success stories that are starting to emerge.

In Michigan for example, there are already two success stories, the first relating to the auto industry and the second relating to bone marrow transplants.

In September 1995, an ATP-funded project, the ''2 millimeter (2mm) program,'' was completed. As a result of this grant, new manufacturing technologies and practices that substantially improve the fit of auto body parts during automated assembly of metal parts was developed. This technology has substantially improved the fit of auto body parts during assembly, resulting in dimensional variation at or below the world benchmark of 2 millimeters, the thickness of a nickel. What does this mean for this Nation's economy? It means that U.S. auto manufacturers can make cars and trucks with less wind noise, tighter fitting doors and windshields, fewer rattles, and higher customer satisfaction. In addition, there is a cost savings between $10 and $25 per car to the consumer, and maintenance cost savings is estimated between $50 and $100 per car. In addition, this improved quality is estimated to give the U.S. auto manufacturers a 1- to 2-percent gain in market share. Equally important is that this newly developed technology is applicable in the sheet metal industry, and industries as diverse as aircraft, metal furniture fabrication, and appliance manufacturing. Quality improvement from this technology could result in an increase in total U.S. economic output of more than $3 billion annually.

In 1992, Aastrom Biosciences, a 15-person firm in Ann Arbor, MI, proposed a bioreactor that would take bone marrow cells from a patient and within 12 days produce several billion stem, white, and other blood cells—cells that can be injected into the patient to rapidly boost the body's disease-fighting ability. The technology looked promising but was too risky and long-term at that point to obtain significant private funding.

The national benefit of this program was that it provided a reliable device that would allow blood cells from a patient to be grown in large quantities would reduce health care costs, require fewer blood transfusions, and greatly improve the treatment of patients with cancer, AIDS, and genetic blood diseases. Aastrom submitted a proposal identifying the economic opportunity and technical promise, and in 1992 the ATP co-funded a research project that developed a new prototype bioreactor. Today, after completing the ATP project and proving the technology, the company has over 60 employees, and another 30 providing contract services, a practical prototype, and over $36 million in private investment to develop their new blood cell bioreactor into a commercial product.

In North Carolina, Cree Research of Durham, won an ATP award in April 1992 to develop improved processing for growing large silicon-carbide crystals—a semiconductor material used for specialized electronic and optoelectronic devices such as the highly desired blue light-emitting diodes [LED's]. In 1992, this market was limited because of difficulties in growing large, high-quality single crystals. With ATP support, Cree Research was able to double the wafer size, with significant improvements in the quality of the larger wafers. Since 1992, LED sales are up by over 850 percent as a result of the ATP-funded technology.

In Texas, a company has developed a cost-effective, microchip-based DNA diagnostic testing platform which contains both a family of diagnostic instruments and disposables. This successful prototype has demonstrated single molecule detection at a tenfold throughput advantage over conventional technologies. Numerous patented products will result from this technology in a market—molecular tools for diagnostics—which is expected to reach $2 billion by the year 2004.

ATP funded projects from 5 and 6 years ago are becoming success stories all across the Nation.

Mr. President, ATP is working, and the U.S. economy is benefitting; 288 awards have been given thus far, including 104 joint ventures, and 184 single applicants. Small businesses account for 106 awards and are the lead in 28 of the joint ventures. For the $989 million in ATP funding committed by the Federal Government, industry has committed $1.03 billion in cost sharing. The success stories, however, show us Mr. President, that the Federal funding and the cost sharing is just the seed money for enormous contributions to our national economy and our global competitiveness. Necessary seed money that bridges the innovation gap in this country between basic research and emerging technologies. I encourage my colleagues to continue their support of this worthy and successful program, and to reject this amendment that will take us backwards and help our foreign competitors while weakening our own economy.

Mr. SMITH of New Hampshire. Mr. President, I rise today in support of Senator BROWNBACK's amendment to the Commerce, Justice, and State appropriations bill for fiscal year 1998. This amendment prohibits the awarding of grants from the Advanced Technology Program [ATP] within the Department of Commerce to corporations with sales greater than $2.5 billion.

This amendment offered by the Senator from Kansas is a good amendment that should enjoy bipartisan support. After all, I hear my colleagues on both sides of the aisle talking year after campaign year about eliminating corporate welfare. Therefore, I assume a vote to limit grants to the wealthiest corporations in the Nation should be an easy one. Let's be clear about what

firms we are talking about. The companies that have been awarded the largest grant amounts are IBM, General Motors, General Electric, Ford, and Sun Microsystems, among others. Do these sound like corporations in need of one, two or three million dollar grants? To me, these profitable firms sound like companies that could certainly find private sector funding. And this belief is not without basis. In fact, the General Accounting Office [GAO] surveyed 89 grant recipients and 34 near-winners that applied for ATP funding between 1990 and 1993. Of the near-winners, half continued their research and development projects despite a lack of ATP funding. Among those who received grants, 42 percent said they would have continued their R&D without the ATP money.

The Federal Government should not be in the business of providing corporate subsidies. However, we should fund basic science projects that do not have short-term profit-making potential, and would otherwise not be funded by the private sector. The Senator's amendment is a step toward reversing this trend toward funding applied research that ultimately produces handsome profits for these companies. Under his reasonable proposal, the most profitable firms, companies that realize more than $2.5 billion in sales, would not be eligible for ATP subsidies. While I would prefer to see these corporate subsidies eliminated from our budget, I would be pleased to know that Federal funding is not going to enormously profitable corporations.

Defenders of the ATP corporate welfare program argue that these grants allow research that otherwise would not go forward. How do we know, when many of the grant recipients did not even seek private sector money before coming to the Federal Government? In fact, GAO found that 63 percent of the ATP applicants surveyed had not sought private sector funding before applying for a grant. Other opponents of this amendment are the same Senators who oppose the efforts of the Republicans to ease the tax burden on Americans. At the same time these Members deny taxpayers the chance to keep some of their own money, they turn around and give the hard-earned tax dollar to billion dollar corporations.

However, after hearing so many Senators speak out against corporate welfare, I am confident that this amendment will be approved by a wide margin. I urge my colleagues to support the amendment.

Mr. LIEBERMAN. Mr. President, I rise to speak on the Department of Commerce's Advanced Technology Program or ATP. This is an important program and I have long appreciated Senator HOLLINGS' work in founding and continuing it. The amendment offered by Senator BROWNBACK would prohibit ATP awards to companies with revenues that exceed $2.5 billion. I oppose Senator BROWNBACK's amendment and would like to thank Senator FRIST for his floor statement explaining why he too has voted against the amendment. Like Senator FRIST, I think there are several solid reasons as to why Senator BROWNBACK's amendment should be opposed.

My first concern is process—this is an attempt to legislate a very complex issue now being considered by the authorizing committee, on an appropriations bill. The Senate Commerce Committee, Science and Technology Subcommittee under Senator FRIST, the Subcommittee Chair, and Senator ROCKEFELLER, ranking Democrat, are planning legislation on ATP, including a careful look at this issue, later this session. I believe in this case that the Senate should vote to wait and see what action the authorizing committee takes.

I would also highlight recent changes to the ATP proposed by Commerce Secretary William Daley that may assist in resolving this debate. The Secretary's action plan for changes is very responsive to recommendations I and other Members of Congress made. Specifically the evaluation criteria will be changed to put more emphasis on joint ventures or consortia. This will help ensure that the program funds only pre-competitive research and development; for if competitors in the development phase cooperate in research and development, they are very unlikely to allow access to each other's product development efforts.

Secretary Daley has mandated that the cost-share ratio for large companies, applying as single applicants, will be increased to a minimum of 60 percent. Proposals will also be reviewed by venture capital experts to ensure that private sector financing would not be available and a government role is needed. When combined with changes in the evaluation criteria favoring small and medium sized businesses, these changes will result in virtually all ATP grants being awarded to either consortium or small and medium sized company single applicants.

Finally, modifications to the ATP's rules and procedures would help facilitate cooperative ventures between industry and universities and national laboratories. To date, university and Federal laboratory participation has been hindered over concerns regarding intellectual property and project management.

After studying the Secretary's report, I believe that the ATP will emerge both as a more effective program and one with a significantly reduced political profile. Its new structure appears to have answered criticisms raised and is consistent with the bipartisan ideas endorsed by the Senate Science and Technology Caucus of which I am a member.

I believe that the changes introduced by Secretary Daley, now under review by the Commerce Committee, are a better way to ensure the continued effectiveness of the Advanced Technology Program than the pending amendment which would completely ban large companies from all participation in the ATP. Large companies play a key role in the innovation process through their organizational ability, resources and market experience. To entirely preclude their participation in the ATP would be a mistake. I will vote to oppose this amendment and look forward to Senator FRIST's subcommittee review.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I want to speak on this bill.

I thank Senator GREGG, our subcommittee chairman, and Senator HOLLINGS, our ranking member, for help, for cooperation and commitment to the most important issue facing my State, and that is bolstering the front line of our Nation's defense in the war on drugs.

The U.S. Border Patrol has been funded in this bill. It has been funded to the extent that we will be able to add 1,000 new Border Patrol agents during fiscal year 1998. This bill provides adequate funding for their training and supervision. Moreover, it reflects the ongoing commitment of Congress to put 5,000 new Border Patrol agents on the line and to regain control of our borders by the year 2002.

Mr. President, I have to tell you that this was a hard-fought effort. The Immigration Reform Act passed last year directed the administration to submit a budget request to Congress which included funding for 1,000 new agents. Regrettably, they only requested funding for 500. I and Senator GRAMM have had many discussions with the Attorney General and the INS Commissioner. I am convinced of their commitment to secure our borders. I think they really are sincere. But now they must back that up with the requested resources in future years.

Over the past several months, I have felt and expressed a sense of hopelessness in our Nation's war on drugs. I feel this hopelessness because no matter where I travel in Texas, I meet people who have lost loved ones to drug violence. I know ranchers and farmers along our border who have been intimidated by drug smugglers. They have had their homes shot at in broad daylight. I know of Customs agents of Mexican-American heritage who have been told by drug smugglers to look the other way as cocaine, heroin, marijuana, and methamphetamines are smuggled across the border because their families back in Mexico will be harmed if they do not.

Just this morning, a friend of mine called me to tell me about his friend

who lives in Carrizo Springs. He described gangs of drug thugs and illegal immigrants who are terrorizing residents of this small Texas community. They are scared and they feel helpless. These Texans have the misfortune to live along the front lines of a business that provides $10 billion to the Mexican economy each year—the drug market.

The Office of National Drug Control Policy reports that approximately 12,800,000 Americans use illegal drugs. Illegal drug use occurs among members of every ethnic and socioeconomic group in the United States. And 10.9 percent of all children between 12 and 17 use illegal drugs and 1 child in 4 claims to have been offered illegal drugs in the last year.

Drug-related illness, death and crime cost the United States approximately $67 billion each year, including costs for lost productivity, premature death, and incarceration.

I strongly believe and share the view that effective treatment and prevention is needed to break the cycle that links illegal drugs to violent crime. It is the only way to protect our children and save their future.

Mr. President, our southern neighbor, Mexico, is the source of between 20 and 30 percent of the heroin, 70 percent of the marijuana, and 50 to 70 percent of the cocaine shipped into the United States. If the flow of drugs is going to stop, the front line of that war will be along our Nation's border with Mexico. The United States-Mexico border is 2,000 miles long, and Texas has 1,200 miles of that border.

You can see how that border goes. You can see that, of the 2,000, 1,200 miles is along Texas. Texas has been and will continue to be the key battleground in this war.

I am pleased that we have been able to work with the Border Patrol and the committee to correct disparities in placing Border Patrol along the border. As you can see from this chart, Texas has 1.7 agents for every 1 of our 1,254 miles—1.7 for this 1,254-mile border. New Mexico and Arizona do not fare much better. California has 16.3 agents for every one mile of the border. I cannot go home and tell my constituents that we are doing all we can in the war on drugs if Congress and the administration fail to provide the funding for more Border Patrol agents.

Two of Mexico's largest drug cartels, the Juarez cartel and the Matamoros cartel operate from El Paso here and Brownsville, respectively. You can see from this chart that from the Matamoros cartel, the gulf cartel, the drugs go in and over to the eastern seaboard. From the Juarez cartel, it goes into Colorado and Chicago, the Midwest. From the Tijuana cartel, it goes into California, goes to the Pacific Northwest. So you can see what is happening to our country and what not closing the border can do to the amount of illegal drugs that are coming into our country.

As we work on this funding for fiscal year 1998, I will be asking many questions about deployment of resources from the DEA and from the Border Patrol because we must put the resources where the threat lies. Two-thirds of the illegal immigration and the illegal drugs flowing through Mexico and into our country go through Texas, through McAllen, through Eagle Pass, and through the Del Rio Border Patrol sectors. Two-thirds of the illegal immigration and the illegal drugs go through these corridors. Yet as we have said, there are only 1.7 agents per mile in Texas, and we must do something about that, and that is what this bill is going to address today.

The bill that we pass will fully fund 1,000 new Border Patrol agents. We need this help. It is the highest priority I have. As long as drugs are coming through Mexico into the United States through this border, it should be the highest priority for everyone.

That is why I cannot say enough times how pleased I am that the chairman of the subcommittee, Senator GREGG; Senator HOLLINGS, the ranking member of the subcommittee; as well as our chairman, Senator STEVENS, all agreed that this was a crisis that affects all of us. It is not just the border States; it is all of the States that these drugs funnel into. Nothing is a greater priority than stopping the flow of illegal drugs into our country. When 1 child in every 4 has been offered illegal drugs, we cannot look them in the eye and say we are protecting their future if we do not stop those illegal drugs.

So I want to work with the Attorney General and the Commissioner of INS and General McCaffrey, who is our drug czar, who is trying to grapple with this issue. I want to say to them, no resource is going to be withheld if it will stop the illegal drugs and the illegal immigration into our country that has criminalized our borders.

This bill addresses that today, and I will ask the Attorney General and the Commissioner of INS to help us by deploying the full 1,000 and making sure that we stop the centers where these people are coming through Texas. If we can stop it right now, then our children will have a better future.

Thank you, Mr. President. Once again I thank the subcommittee chairman. I think, if we can work together on a bipartisan basis, we can make a difference for the future of our country. And this is a major first step.

Thank you, Mr. President. I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my judgment, there is an urgent need that independent counsel be appointed to investigate and prosecute campaign finance violations arising out of the 1996 Federal elections. The efforts to persuade Attorney General Reno to make that application for independent counsel have thus far failed. It is my view that it is important to consider alternatives in order to have independent counsel appointed.

In my judgment, there are two possible alternatives available. One would be a lawsuit to ask the United States Court of Appeals for the District of Columbia, the appropriate panel on independent counsel, to appoint independent counsel, notwithstanding the refusal of the Attorney General to make that application.

The general rule of law is that a public official may not be compelled to perform a discretionary function, an area of law which I had some experience with as district attorney of Philadelphia. However, there is a narrow ambit, even when considering a discretionary rule, where there may be an application for relief if there is an abuse of discretion by the public official. It is my legal judgment that there has been such an abuse of discretion by the Attorney General in this situation.

Another alternative would be to legislate in the field, to make it abundantly plain that independent counsel should be appointed here, and that the circuit court would have the authority to do so. In my opinion, there is a realistic likelihood of success on litigation at the present time.

Although the independent counsel statute poses certain problems which make it to some extent uncertain, I believe there is a legal basis for proceeding to have the court appoint independent counsel without any modification of pending law. There is the alternative of legislating on this bill which is before the Senate, to make certain modifications of the independent counsel law, which would remove any conceivable doubt about the authority of the circuit court to appoint independent counsel.

Mr. President, on the issue of the exhausting of remedies on requesting that independent counsel be appointed by Attorney General Reno, the record is replete with a whole series of requests having been made by individual Members of Congress and then by the Judiciary Committee of the U.S. Senate. The issue was focused on very sharply with Attorney General Reno in oversight hearings which we had several months ago. I had an opportunity to question the Attorney General on this subject and pointed to two specific instances which, in my judgment, cried out for the appointment of independent counsel.

President Clinton has publicly complained about having been denied national security information which he thought he should have and has complained that such information was denied to him by the FBI and the Department of Justice. In questioning Attorney General Reno on this subject in the Judiciary oversight hearing, she defended that denial of information on the ground that there was a pending criminal investigation and that as a matter of balance, it was her judgment as Attorney General that the information should not be turned over to the President.

On the record in that Judiciary Committee oversight hearing, I disagreed

with her conclusion on the ground that the Attorney General did not have the authority to decide what the President should or should not see on national security matters; the President as Commander in Chief and Chief Executive Officer of the United States has an absolute right to that information. If there were to be a denial to the President, it was not the function of the Attorney General or the FBI to deny that information. However, if the Attorney General felt that a denial of information was warranted under the circumstances, that was a very powerful showing that independent counsel ought to be appointed. If the President of the United States is in any way suspected, that provides a very strong basis that his appointed Attorney General ought not be conducting that investigation. It ought to be handled by independent counsel.

It was pointed out to Attorney General Reno in the course of that oversight hearing that this followed directly her testimony on confirmation where she strongly endorsed the concept of independent counsel both as a matter of avoiding conflict of interest and, as Attorney General Reno said at that time, avoiding the appearance of conflict of interest. Notwithstanding that, she has refused to make an application for the appointment of independent counsel.

A second line of questioning which I pursued with the Attorney General involved the issue of violations of the campaign finance laws. On that subject, there has been substantial information in the public domain about the President's personal activities in preparing television commercials for the 1996 campaign. There is no doubt—and the Attorney General conceded this—there would be a violation of the Federal election law if, when the President prepared campaign commercials, they were advocacy commercials, contrasted with what is known as issue commercials. The activity of the President in undertaking that activity has been documented in a book by Dick Morris and also in public statements by his chief of staff, Leon Panetta.

The Attorney General, during the course of the hearing, disputed my contention that the commercials were, in fact, advocacy commercials. I then wrote to the Attorney General the next day, on May 1, and set forth a series of commercials which President Clinton had edited, or prepared, and asked her if those were, in fact, advocacy commercials. In the letter, I cited the Federal Election Commission definition of express advocacy, which is as follows:

> Communications using phrases such as ''vote for President,'' or ''reelect your Congressman,'' ''Smith for Congress,'' or language which, when taken as a whole and with limited reference to external events, can have no other reasonable meaning than to urge the election or defeat of a clearly identifiable Federal candidate.

Mr. President, it is my submission that reasonable people cannot differ on the conclusion that the commercials that President Clinton prepared were express advocacy commercials. This is an illustration of a commercial:

> Protecting families. For millions of working families, President Clinton cut taxes. The Dole-Gingrich budget tried to raise taxes on 8 million. The Dole-Gingrich budget would have slashed Medicare $270 billion and cut college scholarships. The President defended our values, protected Medicare, and now a tax cut of almost $1,500 a year for the first two years of college. Most community college is free. Help adults go back to school. The President's plan protects our values.

It is hard to see how anyone could contend that that is not an express advocacy commercial. It certainly fits within the definition of the Federal Election Commission, which is that the language taken as a whole can have no other reasonable meaning than to urge the election and defeat of a clearly identified Federal candidate. That commercial refers to two Federal candidates, and one is President Clinton. It extols his virtues, obviously speaking in favor of the President. That commercial refers to another candidate, former Senator Dole, arguing about his failings.

Mr. President, I ask unanimous consent that at the conclusion of my remarks, my letter dated May 1, 1997, be printed in the Congressional RECORD.

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

(See exhibit 1.)

Mr. KERRY. Mr. President, can I ask the Senator from Pennsylvania what his intentions may be with respect to the floor, timewise?

Mr. SPECTER. I expect to speak at some length, Senator KERRY, and to introduce an amendment to the present bill. There is a vote scheduled for 2 o'clock, and I will have a considerable amount to say, which will not all be said by the time the vote comes up.

Mr. KERRY. Well, Mr. President, if I could inquire again of the Senator—and I appreciate his indulgence here. I did want to speak with respect to the amendment that is pending for the vote at 2 o'clock. It is my understanding that the amendment being submitted by the Senator will not be voted on at 2. So I ask the distinguished Senator if he might be willing to agree to permit some period of time—and I don't need a lot— before 2 o'clock so that I might speak on the pending amendment.

Mr. SPECTER. May I inquire of the Senator from Massachusetts, how much time he would like to have?

Mr. KERRY. I would be pleased to have 6 or 7 minutes.

Mr. SPECTER. Mr. President, I ask unanimous consent that my presentation be interrupted for 7 minutes so that Senator KERRY may speak and that I be entitled to regain the floor.

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

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I want to speak with respect to the amendment that seeks to make it more difficult for large companies to be able to participate in the Advanced Technology Program. As a matter of background, Mr. President, for years in this country, we had a structure where we had the Bell Laboratories, or IBM, and other very large entities who were engaged in major research and technology. And for years, this country's economy benefited enormously because of the remarkable amount of private sector and public sector research. The defense industry and other industries had an enormous amount of spinoff. If you look at something like the experience of Route 128 in Massachusetts, or the Silicon Valley, everybody understands that some of the great technology jobs of the present time come from the 1960's and 1970's spinoffs through that investment.

The fact is that our economic structure has changed very significantly in the 1990's. We no longer have that kind of broad-based technology research fueled by the Federal Government. We have a much more specific and targeted kind of research that takes place. And as a result of that, both the Federal Government and the private sector have narrowed the kind of basic science and research that we do, which often results in those spinoffs, which has provided the remarkable foundation of the economic growth we are experiencing now in our Nation.

It is also ironic that, at the very time that we are doing that, Japan and other countries are increasing their technology investment. I believe, last year, Japan committed to a 50-percent increase in their national commitment to science and basic technology research.

So the truth is that, a number of years ago, the Commerce Committee, with the leadership of Senator HOLLINGS, Senator ROCKEFELLER, myself and others, created what is known as the Advanced Technology Program, which is a way to joint venture in the United States between our universities and our laboratories and various entities in the private sector, in order to maximize what was a diminishing ability to move science from the laboratory to the shelf, to the marketplace. It would be most regrettable to turn around now and reduce the capacity of a large company to be able to be part of a consortium, to be able to joint venture with smaller companies in an effort to fill that vacuum and make up for that scientific research.

In point of fact, Mr. President, let me just share a couple of success stories from the Advanced Technology Program from 16 different States in our country. The Advanced Technology Program put together a device that would allow blood cells from a patient to be grown in large quantities, consequently reducing health care costs, requiring fewer blood transfusions and improving treatment possibilities for patients with cancer, AIDS, and genetic blood diseases. It developed manufacturing technologies and practices

that substantially improved the fit of auto body parts during automated assembly of metal parts, which resulted in United States auto manufacturers making cars and trucks with less wind noise, tighter fitting doors and windshields, fewer rattles, and higher customer satisfaction, and potentially increasing United States auto manufacturers' gain in the world market. Another example of success was a development of a new way to solder electronic circuit boards that uses less solder, and is more precise, more efficient, and environmentally benign than current technologies. In addition, there was a development of a process to develop ultrafine ceramic powders that can be heat pressed into parts such as piston heads and turbine blades, and those significantly impact parts manufacturing.

Somebody might sit there and say, well, OK, Senator, these things are all well and good, why didn't these companies just go do it on their own? Why should the Federal Government be involved in supporting that? The answer to that is the reason that we ought to keep this program going: The reality is that the way money functions in the marketplace, it seems it's the best return on investment, fastest or safest, but it doesn't often commit to take some of the higher risks, particularly given the change within the marketplace today. It is a known fact—you can talk to any venture capitalist, and talk to anybody out there seeking the capital—that it is only because of programs like the Advanced Technology Program, where the Government is willing to share not only in the risk, but in the burden of trying to find the processes and the technologies, that we can advance in helping to bring together the special combinations, where we have been able to make things happen that simply would not happen otherwise.

We have created jobs, we have advanced ourselves in the world marketplace. We have maintained our competitive edge as a consequence of this commitment. And to create this arbitrary, sort of means-tested, very precise process of eliminating a whole group of companies that have great technology, but may not be willing to share it with smaller companies absent this joint risk, would be an enormous loss to the American competitive edge. That is the reason that it is so important for the United States to continue this effort. It is also a fact that while large firms are able to pay for their own research and development, they are not always going to pay for the longer term, higher risk, broader applied technology principles that other nations or other companies might benefit from without paying for it.

So, Mr. President, I strongly urge colleagues not to respond to the sort of simple view of this adopting a notion that a large company is automatically able to take care of itself and eliminate this program. We need large companies in combination with small, we need large companies lending expertise to our universities, we need large companies to be part of this combination. Without this combination, those companies, Mr. President, will not make this commitment and America will lose in the marketplace. I urge my colleagues to reject the Brownback amendment. I thank the Senator from Pennsylvania again for his courtesy.

Mr. SPECTER. Mr. President, I was in the process of my contention that the commercials prepared and/or edited by President Clinton constituted express advocacy, and I asked that my letter of May 1, 1997, to Attorney General Reno be printed in the RECORD.

I now ask that the reply from Attorney General Reno, dated June 19, 1997, be printed in the RECORD.

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

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, June 19, 1997.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: I have received your letter of May 1, 1997, asking that I offer you my legal opinion as to whether the text of certain television commercials constitutes ''express advocacy'' within the meaning of regulations of the Federal Election Commission (''FEC''). For the reasons set forth below, I have referred your request to the FEC for its consideration and response.

Under the Federal Election Campaign Act, the FEC has statutory authority to ''administer, seek to obtain compliance with, and formulate policy with respect to'' FECA, and exclusive jurisdiction with respect to civil enforcement of FECA. 2 U.S.C. §437c(b)(1); *see* 2 U.S.C. §437d(e) (FEC civil action is ''exclusive civil remedy'' for enforcing FECA). The FEC has the power to issue rules and advisory opinions interpreting the provisions of FECA. 2 U.S.C. §§437f, 438. The FEC may penalize violations of FECA administratively or through bringing civil actions. 2 U.S.C. §437g. In short, ''Congress has vested the Commission with 'primary and substantial responsibility for administering and enforcing the Act.'" *FEC* v. *Democratic Senatorial Campaign Comm.*, 454 U.S. 27, 37 (1981), *quoting Buckley* v. *Valeo*, 424 U.S. 1, 109 (1976).

The legal opinion that you seek is one that is particularly within the competence of the FEC, and not one which has historically been made by the Department of Justice. Determining whether these advertisements constitute ''express advocacy'' under the FEC's rules will require consideration not only of their content but also of the timing and circumstances under which they were distributed. The FEC has considerably more experience than the Department in making such evaluations. Moreover, your request involves interpretation of a rule promulgated by the FEC itself. Indeed, it is the standard practice of the Department to defer to the FEC in interpreting its regulations.

There is particular reason to defer to the expertise of the FEC in this matter, because the issue is not as clear-cut as you suggest. In *FEC* v. *Colorado Republican Federal Campaign Comm.*, 839 F. Supp. 1448 (D. Colo. 1993), *rev'd on other grounds*, 59 F.3d 1015 (10th Cir. 1995), *vacated*, 116 S.Ct. 2309 (1996), the United States District Court held that the following advertisement, run in Colorado by the state Republican Federal Campaign Committee, did *not* constitute ''express advocacy'':

''Here in Colorado we're used to politicians who let you know where they stand, and I thought we could count on Tim Wirth to do the same. But the last few weeks have been a real eye-opener. I just saw some ads where Tim Wirth said he's for a strong defense and a balanced budget. But according to his record, Tim Wirth voted against every new weapon system in the last five years. And he voted against the balanced budget amendment.

''Tim Wirth has a right to run for the Senate, but he doesn't have a right to change the facts.''

839 F. Supp. at 1451, 1455–56. The court held that the ''express advocacy'' test requires that an advertisement ''in express terms advocate the election or defeat of a candidate.'' *Id.* at 1456. The Court of Appeals reversed the District Court on other grounds, holding that ''express advocacy'' was not the appropriate test, and the Supreme Court did not reach the issue.

Furthermore, a pending matter before the Supreme Court may assist in the legal resolution of some of these issues; the Solicitor General has recently filed a petition for certiorari on behalf of the FEC in the case of *Federal Election Commission* v. *Maine Right to Life Committee, Inc.*, No. 96–1818, filed May 15, 1997. I have enclosed a copy of the petition for your information. It discusses at some length the current state of the law with respect to the definition and application of the ''express advocacy'' standard in the course of petitioning the Court to review the restrictive definition of the standard adopted by the lower courts in that case.

It appears, therefore, that the proper legal status of these advertisements under the regulations issued by the FEC is a question that is most appropriate for initial review by the FEC. Accordingly, I have referred your letter to the FEC for its consideration. Thank you for your inquiry on this important matter, and do not hesitate to contract me if I can be of any further assistance.

Sincerely,

JANET RENO.

Mr. SPECTER. Further, I ask unanimous consent that a letter from the Federal Election Commission, dated June 26, 1997, be printed in the RECORD.

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

FEDERAL ELECTION COMMISSION,
Washington, DC, June 26, 1997.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR SPECTER: Your letter of May 1, 1997 to Attorney General Reno has been referred by the Department of Justice to the Federal Election Commission. Your letter asks for a legal opinion on whether the text of certain advertisements constitutes ''issue advocacy'' or ''express advocacy.''

As the Attorney General's June 19, 1997 letter to you correctly notes, the Federal Election Commission has statutory authority to ''administer, seek to obtain compliance with, and formulate policy with respect to'' the Federal Election Campaign Act (''FECA''). 2 U.S.C. §437c(b)(1). The Commission's policymaking authority includes the power to issue rules and advisory opinions interpreting the FECA and Commission regulations. 2 U.S.C. §§437f and 438.

Your May 1 letter notes that the Commission has promulgated a regulatory definition of ''express advocacy'' at 11 CFR 100.22. While the Commission may issue advisory opinions interpreting the application of that provision, the FECA places certain limitations on the scope of the Commission's advisory opinion authority. Specifically, the FEC

may render an opinion only with respect to a specific transaction or activity which the requesting person plans to undertake in the future. See 2 U.S.C. 437f(a) and 11 CFR 112.1(b). Thus, the opinion which you seek regarding the text of certain advertisements does not qualify for advisory opinion treatment, since the ads appear to be ones previously aired and do not appear to be communications that you intend to air in the future. Moreover, ''[n]o opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of [section 437f].'' 2 U.S.C. §437f(b).

While the FECA's confidentiality provision precludes the Commission from making public any information relating to a pending enforcement matter, I note that past activity such as the advertisements you describe may be the subject of compliance action. If you believe that the advertisements in question involve a violation of the FECA, you may file a complaint with the Commission pursuant to 2 U.S.C. §437g(a) noting who paid for the ads and any additional information in your possession that would assist the Commission's inquiry. The requirements for filing a complaint are more fully described in the enclosed brochure.

I hope that this information proves helpful to your inquiry. Please feel free to contact my office (219–4104) or the Office of General Counsel (219–3690) if you need further assistance.

Sincerely,

JOHN WARREN MCGARRY,
Chairman.

Mr. SPECTER. Mr. President, the essence of the Attorney General's response to me was that she would not respond on the legal issue, notwithstanding she is the Nation's chief law enforcement officer. She passed the buck over to the Federal Election Commission. The Federal Election Commission passed the buck back, saying that these were matters that had already occurred, so they didn't come within advisory opinions. One way or another, Mr. President, we will have a determination as to what is involved there. The alternative of proceeding in court is one which we are currently examining, and as I have noted, there is an issue as to whether that can be done on the existing statute.

I do believe there is a legal basis for so proceeding, but on a novel bit of litigation of this sort, no lawyer can be absolutely certain as to what the result would be. But in the context of what we have on the record with the Attorney General's refusal to appoint independent counsel, in a context where she is denying the President of the United States national security information, and her refusal to proceed to appoint independent counsel where the Attorney General concedes that there has been a coordinated effort by the President so that the only remaining issue is whether there is an advocacy commercial, which on their face, I submit, these commercials are. The problems have been compounded with the conduct of the Attorney General and the Justice Department in the course of the last several days where they have opposed applications for immunity requested for consideration by the Governmental Affairs Committee.

The Governmental Affairs Committee, as is well known, is currently investigating illegal or improper activities in the 1996 Federal elections. A modus operandi has been worked out there which would allow the Attorney General to come in and give the committee the Attorney General's opinion as to whether immunity should be withheld or granted.

The law is plain that the committee has the jurisdiction to make that determination, where the statute gives the Attorney General a period of time to object and additional time for the purpose of putting the Department of Justice's case together. Due to the problems created by the decisions involving Admiral Poindexter and Colonel North go to a point where limited immunity is granted, the prosecutor must prove the case from independent sources and the prosecutor can put a case together, can, so to speak, bundle the case before immunity is granted.

So when the request was made for applications for immunity for five individuals, the Attorney General responded, the Department of Justice responded that they objected to the grant of immunity. That was, so to speak, the straw which broke the camel's back and the chairman of the committee, Senator THOMPSON, made a very forceful public statement on Tuesday saying that he had lost confidence in the Department of Justice to conduct an impartial and appropriate investigation, and that the refusal to agree to those grants of immunity was just beyond the pale, a conclusion with which I agree.

On the basis of the equities here, I believe a very, very strong case can be made out to have the Court, in its supervisory authority, appoint independent counsel notwithstanding the absence of an application by the Attorney General. However, in consultation with my colleagues, I have decided to introduce an amendment to the pending bill which would make certain modifications in the independent counsel statute. These modifications would create new authority for the Congress to seek judicial appointment of an independent counsel where there is a determination that the Attorney General's failure to do so is an abuse of discretion. This authority would reside in the Judiciary Committee, where the full committee or a majority of the majority party members or a majority of the nonmajority party members could petition the Court to appoint an independent counsel where the full committee or a majority of either party's committee members determines that the Attorney General's failure to appoint an independent counsel is an abuse of discretion. This carefully crafts a procedure so that there is a limit of standing as to who may come in and ask for the appointment of independent counsel.

The amendment, which I propose to introduce, would further provide for a judicial determination on independent counsel with a specification that upon receipt of a congressional application, the Court shall appoint independent counsel where the Court has determined that the Attorney General's failure to appoint an independent counsel is an abuse of discretion.

There are considerations on constitutional issues here, but I believe that other relevant issues must also be considered. Regarding the context of the current factual situation and carefully limiting the petitioning authority to the Congress, and in the context where the Attorney General herself has emphasized the importance of the independent counsel provision, including the avoidance of appearance of impropriety, it is my judgment that this law would pass constitutional muster and would provide an important addition in the interest of justice to solve the problem which we now confront, where the overwhelming weight of evidence—and I don't use that term lightly. It is evidence. It has evidentiary value—calls for the appointment of independent counsel.

There is pending at the present time an amendment so I cannot introduce my amendment now. A subsequent amendment is pending. But it is my intention, as I say, Mr. President, to introduce this amendment. There have been some preliminary indications that the introduction of this amendment might tie up the bill, and I do not intend to tie up the bill. If that is the consequence of the introduction of an amendment, if a filibuster were to follow, I would not persist and subject this appropriations bill to a filibuster. I firmly believe that it is in the public interest in a very serious way to have independent counsel appointed, and it is obvious that all the entreaties to the Attorney General have thus far been unsuccessful and litigation is an option which may be pursued. However, this statutory change would make it certain that the Court would have the authority and that the petitioning parties would have appropriate standing to have independent counsel appointed.

I thank the Chair and yield the floor.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 1, 1997.

Hon. JANET RENO,
Attorney General,
Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: Following up on yesterday's hearing, please respond for the record whether, in your legal judgment, the text of the television commercials, set forth below, constitutes ''issue advocacy'' or ''express advocacy.''

The Federal Election Commission defines ''express advocacy'' as follows:

''Communications using phrases such as 'vote for President,' 'reelect your Congressman,' 'Smith for Congress,' or language which, when taken as a whole and with limited reference to external events, can have no other reasonable meaning than to urge the election or defeat of a clearly identified federal candidate.'' 11 CFR 100.22

The text of the television commercials follows:

''American values. Do our duty to our parents. President Clinton protects Medicare.

The Dole/Gingrich budget tried to cut Medicare $270 billion. Protect families. President Clinton cut taxes for millions of working families. The Dole/Gingrich budget tried to raise taxes on eight million of them. Opportunity. President Clinton proposes tax breaks for tuition. The Dole/Gringrich budget tried to slash college scholarships. Only President Clinton's plan meets our challenges, protects our values.

''60,000 felons and fugitives tried to buy handguns—but couldn't—because President Clinton passed the Brady Bill—five-day waits, background checks. But Dole and Gingrich voted no. One hundred thousand new police—because President Clinton delivered. Dole and Gingrich? Vote no, want to repeal 'em. Strengthen school anti-drug programs. President Clinton did it. Dole and Gingrich? No again. Their old ways don't work. President Clinton's plan. The new way. Meeting our challenges, protecting our values.

''America's values. Head Start. Student loans. Toxic cleanup. Extra police. Protected in the budget agreement; the president stood firm. Dole, Gingrich's latest plan includes tax hikes on working families. Up to 18 million children face healthcare cuts. Medicare slashed $167 billion. Then Dole resigns, leaving behind gridlock he and Gingrich created. The president's plan: Politics must wait. Balance the budget, reform welfare, protect our values.

''Head Start. Student loans. Toxic cleanup. Extra police. Anti-drug programs. Dole, Gingrich wanted them cut. Now they're safe. Protected in the '96 budget—because the President stood firm. Dole, Gingrich? Deadlock. Gridlock. Shutdowns. The president's plan? Finish the job, balance the budget. Reform welfare. Cut taxes. Protect Medicare. President Clinton says get it done. Meet our challenges. Protect our values.

''The president says give every child a chance for college with a tax cut that gives $1,500 a year for two years, making most community colleges free, all colleges more affordable . . . And for adults, a chance to learn, find a better job. The president's tuition tax cut plan.

''Protecting families. For millions of working families, President Clinton cut taxes. The Dole-Gingrich budget tried to raise taxes on eight million. The Dole-Gingrich budget would have slashed Medicare $270 billion. Cut college scholarships. The president defended our values. Protected Medicare. And now, a tax cut of $1,500 a year for the first two years of college. Most community colleges free. Help adults go back to school. The president's plan protects our values.''

Sincerely,

ARLEN SPECTER.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak on the underlying amendment briefly, the amendment offered by the Senator from Kansas with regard to his efforts to really hone NIST's Advanced Technology Program to serve the public, the amendment to the Commerce, Justice, State, and Judiciary appropriations bill.

I do wish to thank my colleague, the Senator from Kansas, for his efforts to accomplish what we all want to do, and that is to have NIST's ATP serve in the best way possible the public, using taxpayer dollars. And I, too, am very optimistic and feel very confident that this can be done, yet I want to rise and speak against the amendment and stress that the approach is different than what I would like to take and therefore explain it.

I am chairman of the Commerce Science, Technology and Space Subcommittee, the committee through which the reauthorization and the authorization for this ATP takes place. That subcommittee right now is looking at all of the information in a very systematic way to see how we best can evolve that program to provide absolutely the best return on our Nation's investment.

I feel strongly that the proper place to effect such changes should be in a more comprehensive approach rather than a shotgun approach, and that is through the committee structure, through the committee that is charged with the reauthorization of NIST's ATP, and that is what we are doing.

Just last week an excellent report was released by the Commerce Department. It is a 60-day report. It put forth recommendations, four reform efforts in place, suggestions, recommendations—conducted by the Commerce Department. And I dare say I bet there has not been a Senator in the room who has read through that report released just last week.

I think the report is a good first step. We need to go much further than that, but I would rather do that on an authorizing bill rather than having it tagged on an appropriations bill in more of a shotgun fashion.

Our subcommittee is right now working on a reauthorization bill that addresses the longstanding concerns which people have with the Advanced Technology Program so that it can be become a really more effective vehicle for stimulating innovation in this country, and that is what we want to do, stimulate innovation.

I welcome the input to our subcommittee of all interested parties, including my colleagues from the Commerce Committee and the Senator from Kansas, who is also on the Commerce Committee, in order to craft this more comprehensive legislation. Therefore, I rise to express my opposition to this particular amendment offered by the Senator from Kansas and hope that we will begin the opportunity through the appropriate authorizing subcommittee to effect real change, more comprehensive change where we can consider all of the available data in order to accomplish the necessary change in the NIST's Advanced Technology Program through this reauthorization process. I hope my colleagues will join me in opposition to this amendment, recognizing that we will be addressing all of these issues through the appropriate reauthorizing committee, that of science, technology and space.

I yield the floor.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the question now occurs on amendment No. 980, offered by the Senator from Kansas [Mr. BROWNBACK].

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote ''no.''

The result was announced, yeas 42, nays 57, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—42

Abraham	Gorton	McCain
Allard	Gramm	McConnell
Ashcroft	Grassley	Nickles
Bond	Gregg	Roberts
Brownback	Hatch	Santorum
Campbell	Helms	Sessions
Chafee	Hutchinson	Shelby
Coats	Inhofe	Smith (NH)
Collins	Kempthorne	Smith (OR)
Craig	Kohl	Snowe
Domenici	Kyl	Thomas
Enzi	Lott	Thompson
Faircloth	Lugar	Thurmond
Feingold	Mack	Wyden

NAYS—57

Akaka	Dorgan	Leahy
Baucus	Durbin	Levin
Bennett	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Frist	Moseley-Braun
Boxer	Glenn	Moynihan
Breaux	Graham	Murkowski
Bryan	Grams	Murray
Bumpers	Hagel	Reed
Burns	Harkin	Reid
Byrd	Hollings	Robb
Cleland	Hutchison	Rockefeller
Cochran	Inouye	Roth
Conrad	Jeffords	Sarbanes
Coverdell	Johnson	Specter
D'Amato	Kerrey	Stevens
Daschle	Kerry	Torricelli
DeWine	Landrieu	Warner
Dodd	Lautenberg	Wellstone

NOT VOTING—1

Kennedy

The amendment (No. 980) was rejected.

Mr. HOLLINGS. 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.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Mr. LUGAR. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. LUGAR. I ask unanimous consent that the pending amendment be laid aside.

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

AMENDMENT NO. 981

(Purpose: To make appropriations for grants to the National Endowment for Democracy)

Mr. LUGAR. 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 Indiana [Mr. LUGAR], for himself, Mr. MCCONNELL, Mr. LEAHY, Mr. GRAHAM, Mr. LIEBERMAN, Mr. ROTH, Mr. DODD, and Mr. MACK proposes an amendment numbered 981.

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

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

The amendment is as follows:

On page 113, line 7, after the word ''expended.'' insert the following new heading and section:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment Democracy Act, $30,000,000 to remain available until expended.

On page 100, line 24 strike ''$105,000,000'' and insert ''$75,000,000''.

Mr. LUGAR. Mr. President, I ask unanimous consent that no second-degree amendment to my amendment be in order.

Mr. BUMPERS. Objection.

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I understand while I was reserving the right to object somebody else actually lodged an objection.

Mr. BUMPERS. Mr. President, I object to the request.

The PRESIDING OFFICER. Objection is heard.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. KERRY. Mr. President, point of personal privilege, I would simply like to indulge the attention of the Chair. I do this in the most gentle, appropriate way as possible.

I have the utmost respect for the Senator from Indiana. The rules of the Senate are, Senators are recognized as a right of first voice heard by the Chair. Three voices were raised on this side of the aisle. And while I have enormous respect and affection for the Senator from Indiana, I do not think his voice had even been expressed, but he was recognized.

I think the Chair should proceed, if I may say, by the rules of the Senate.

The PRESIDING OFFICER. His voice was expressed. I happened to be looking in his direction and recognized him.

The Senator from Indiana.

Mr. LUGAR. Mr. President, the amendment that I introduce comes to the floor because no funding for the National Endowment for Democracy is in this bill. It has been zeroed out. The bill as written proposes to eliminate the National Endowment for Democracy, a program that has been enthusiastically supported by every administration, Republican and Democratic, since President Ronald Reagan's first term, and by every Congress, Republican and Democratic, since 1983, when it was first launched.

The amendment we are proposing would continue funding for the National Endowment for Democracy at this year's level, namely $30 million. It does not seek an increase in funding. But it proposes that the funding continue.

The amendment would shift $30 million from the State Department Capital Investment Fund in the bill to the National Endowment for Democracy.

I point out, Mr. President, that even with the $30 million shifted from the State Department Capital Investment Fund, that fund will still exceed by $11 million the administration's request.

The capital investment fund is an important initiative. Many of us have written to Secretary Albright and the President about the importance of strengthening the State Department's technological and communications capability. They are significant and important deficiencies in the State Department. And this bill will go a long way to correct them.

But, Mr. President, the administration requested a total of $64 million for these purposes. The bill before us includes a funding level of $105 million, some $41 million over the President's request. Therefore, Mr. President, I am pleased to announce the administration favors our amendment, it favors support of the amendment because it provides for the National Endowment for Democracy and all that had been requested, and more, for the Capital Investment Fund of the State Department.

Let me point out, Mr. President, an important editorial that appeared in the Wall Street Journal this morning that very succinctly sums up the case that we make.

The Wall Street Journal editorial states—and I quote:

A United States Senate accustomed to forking up multibillions will debate the government's equivalent of the widow's mite today, a $30 million appropriation to fund the National Endowment for Democracy. An appropriations subcommittee chaired by New Hampshire Republican Judd Gregg decided not long ago in a fit of austerity to defund the NED, on grounds that it was a relic of the Cold War. The same subcommittee awarded the State Department $100 million, $40 million more than it requested, just to buy computers.

We don't think for minute that a title with the word ''democracy'' in it imparts virtue to a federal enterprise in and of itself, and we confess to having had some skepticism of our own about the NED some years after it was founded in 1984. But a closer look at what the NED has been up to produces some surprises.

Its rather unusual design seems to have encouraged considerably more initiative in its mission of spreading democracy around the world than would be expected of the usual federal agency. Maybe that's because it is not a federal agency, but a free standing foundation with its own board of directors supported by both federal and private money. It channels its grants through four institutes, two of which are operated by the two major U.S. political parties.

One achievement of this Ronald Reagan brainchild was to help Poland's Solidarity break the grip of the Soviet Union in the Cold War days. But it is doing some rewarding work today as well.

Its Republican branch, the International Republican Institute, help set up free elections in Mongolia last year, turning that once-Communist country into a democratic, free market paragon. IRI also is helping villages in China learn how to conduct free and fair elections of local governing committees something they are entitled to do under Chinese law. The Democrats, through their National Democratic Institute for International Affairs, are doing similar work. American politicians are helping teach practical politics at the very foundations of democracy, and doing it on a shoestring.

Is this of value to the U.S.? You only have to ask yourself whether the world is safer with a democratic or an authoritarian China to answer that question. The fact that private corporations are willing to fund special NED projects in non-sensitive situations offers evidence that enlightened businesses value the stability that democracy and a rule of law bring to the countries where they seek to operate. Bulgaria is one such place where new democrats are being offered such aid.

Since news of the defunding became known, the NED has had an outpouring of support from people around the world who have direct knowledge of its contributions.

Hong Kong democratic leader Martin Lee, who faces tough battles ahead in coping with Hong Kong's new Beijing landlords, penned a letter to Senator Connie Mack begging him to help save the NED, Senator Bob Graham has heard from Sergio Aguayo of the Civic Alliance, which has had a strong hand in promoting the multiparty democracy now taking root in Mexico. Jack Kemp, Jeane Kirkpatrick and William Bennett, along with such varied Senate personalities as Richard Lugar, Chris Dodd, John Kyl and Ted Kennedy have weighed in one behalf of NED.

The NED recently sent out an invitation to kindred groups in Germany, Britain, Canada, Sweden and the Netherlands to a meeting in Taiwan in October it will co-sponsor with Taiwan's Institute for National Policy Research. The purpose of this gathering in one of the world's newest democracies is to foster NED-type groups in still more countries. What a shame it would if the U.S. Senate collapsed with an attack of parochialism on the eve of such a bold endeavor.

That is the end of the Wall Street Journal editorial.

Mr. President, I simply make the point that the NED is not a cold war relic. The President of the United States, currently, President Bill Clinton, just as Ronald Reagan at the inception of this, sees the value of this type of activity.

President Clinton has said if we are going to make a difference in Chinese democracy, the National Endowment for Democracy and its International

Republican Institute is on the spur of what needs to happen by promoting the organization of elections in local villages. And this we are doing. These things do not happen by chance.

The President has commended the idea that the National Endowment for Democracy has been involved in Mongolia, has commended the work that is occurring in situations where not only free and fair elections have occurred, but in its unique way the National Endowment for Democracy, by placing labor leaders in nations that have gained democracy, helps build labor unions.

The Chamber of Commerce, by placing businesspeople under the National Endowment for Democracy's auspices, helps market economics get started. Are these important to the United States? You bet they are.

The fact is, a free and fair election can occur, and the cold war may be over, but our Nation needs to relate to other nations that have ongoing sensitivity toward labor-management relationships, market economics, price finding in the markets, freedom of speech, and political dialog that our political parties have fostered.

The suggestion, Mr. President, is this could be done by private enterprise all by itself. But that would have no particular legitimacy. The backing by the Congress, by the administration, by every living Secretary of State, every living National Security Adviser, every living President, of this idea ought to at least weigh in with this body.

There may be Members second-guessing all of these people and saying they are simply out of it. But I would advise Members, they are very much with it. They understand the dynamics of what has to happen in the world and why it is important for these four groups in the National Endowment for Democracy to band together throughout several administrations and with a continuity of effort to make a substantial difference in the world.

Mr. President, I cited a few moments ago letters that have been written. I want to mention specifically one from the Laogai Research Foundation, and a name that all will recognize in this body, Harry Wu, its executive director. He simply says:

> Tomorrow (Thursday), in a letter he wrote to me yesterday, in a vote on the Senate floor, you will be presented with a choice to either support the N.E.D. or [to] kill it. I understand that particular . . . programs may, from time to time, draw the ire of lawmakers. [But] may we suggest that when this is the case, leaders such as yourself [must] suggest . . . what internal changes need to be made.
>
> In other words, don't throw out the baby with the bathwater.
>
> If the United States intends to maintain its leading role in world affairs, continued Congressional support of the National Endowment for Democracy is imperative.

I have cited a letter that was written by Jeane Kirkpatrick, Jack Kemp, William Bennett, Lamar Alexander, Steve Forbes, Vin Weber, a whole galaxy of people involved in Empower America. They are important voices, living, active voices, not relics of the cold war. They understand the dynamics of what we ought to be doing in American politics.

They are joined, as I have suggested earlier, by Sandy Berger, currently the National Security Adviser, and by all the National Security Advisers since the NED was created.

Mr. President, I want to cite specifically a letter from Martin Lee, chairman of the Democratic Party in Hong Kong. Not long ago, many in this Senate honored Martin Lee. Prior to the turnover in Hong Kong, most of us were worried about Martin Lee and democracy.

I simply cite Martin's letter in which he says:

> My main purpose in writing now is to express my concern about proposals I understand are before the Senate to consider eliminating funding for the National Endowment for Democracy. I know you have always been a strong supporter of NED and the important work it does around the world, but I wanted to write to express my conviction the National Endowment for Democracy is indeed indispensable in a world where democracy and freedom are not entrenched and where—to cite the example of Hong Kong—all democratic institutions can be wiped out by fiat.
>
> In Hong Kong and elsewhere in Asia—
>
> Martin Lee says
>
> and around the world, the struggle to preserve democracy, political freedom and the rule of law is far from being won.

Let me just simply say, Mr. President, this is serious business. What is being proposed here in our amendment is that $30 million for computers and technological equipment the State Department did not seek be restored to the National Endowment for Democracy that they did ask for. The request of the President is for this money, leaving fully all of the requests that the administration made for the equipment.

Mr. President, what we have before us we need to see very clearly. There are Members of the body who simply want to kill the National Endowment for Democracy. Now, I resist that idea, and for good reason. The experience of most of us in this Chamber, I hope, would be to say that we have to be active on the front lines, and we have to be active as Republicans, Democrats, labor union members, and business people in our own expertise and synergy and continuity; we have to be active not simply in setting up those activities our diplomacy can do—free and fair elections—but the centers of support of commerce, of labor, of freedom of speech and press and contract law and the details that, alone, make continuity possible and second and third elections in countries transitioning to democracy possible. Mr. President, I do hope that Members will support this amendment. I think it is very important for the foreign policy and security of this country. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

AMENDMENT NO. 982 TO AMENDMENT NO. 981

(Purpose: To make appropriations for grants to the National Endowment for Democracy)

Mr. MCCONNELL. Mr. President, I send a second-degree 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 Kentucky [Mr. MCCONNELL], for himself, Mr. LUGAR, Mr. LEAHY, Mr. GRAHAM, Mr. LIEBERMAN, Mr. ROTH, Mr. DODD, and Mr. MACK, proposes an amendment numbered 982 to amendment No. 981.

The amendment is as follows:

On page 113, line 7, after the word ''expended.'' insert the following new heading and section:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment Democracy Act, $30,000,000 to remain available until expended. This shall become effective one day after enactment of this Act.

On page 100, line 24 strike ''$105,000,000'' and insert ''$75,000,000''.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays on the second-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCONNELL. Mr. President, independence is the first step toward democracy—hardly the last. As our own nation's history records, 87 years after our revolution, President Lincoln stood at Gettysburg to remind a deeply wounded nation——

> It is for us, the living to be dedicated . . . to the unfinished work which they who fought here have thus far so nobly advanced . . . the great task remaining before us—that this nation, under God shall have a new birth both of freedom—and that government of the people, by the people and for the people shall not perish from the earth.

We all, at one point or another in our school careers, memorized that famous address. Eighty seven years after our Nation's birth—when we had a strong, well established representative government—Lincoln spoke of our unfinished work—because we saw our democracy, our Government and Nation divided and devastated by civil war—a war which serves as a caution that even healthy, strong democracies suffer attack and setbacks.

One hundred years after President Lincoln reminded us of our unfinished work, President Reagan stood before the British Parliament in 1982 and predicted the certain end of communism.

But, in forecasting communism's imminent demise, President Reagan called upon his country, our allies and our American political parties to ''contribute as a nation to the global campaign for democracy gathering force.''

This remarkable speech set in motion the people and events which established the National Endowment for Democracy.

President Reagan's message was as simple and pure as it was powerful and enduring—the mission he defined was to create a world illuminated by individual liberty, representative government and the rule of law under God.

Eighty-seven years after our revolution, we needed to recommit ourselves to that purpose at Gettysburg. President Reagan renewed the call and, now, we must rededicate and redouble our efforts to secure democracy around the globe.

With the end of the cold war, this mission and our responsibilities have only just begun. It is not ending, it is the beginning.

The National Endowment for Democracy—and especially its four core institutes—offer the best, most effective, and strongest tools we have available to consolidate the gains we have made in dismantling the structure of Communist and totalitarian governments.

We need to remember that tearing down the weak practices and government architecture of communism is not the same thing as creating or sustaining strong, viable democratic principles, laws and institutions.

Communism has indeed been cast on the ash heap of history. The question remains what will take its place.

Virtually every nation which suffered behind the Iron Curtain has enjoyed some form of free and fair elections—but the first election is not as important as the second then third when there is a real test of democratic principle and practice—when those who have enjoyed elected office must relinquish power if the principle of self determination is to survive. In other words, only after an orderly transition of power from election to election occurs can democracy truly take root.

The key to self-determination—the core of democracy—is the active engagement of citizens in their government. NED and its institutes, in turn are the key to building and encouraging this deep, informed involvement.

These organizations carry out this important work in a number of ways.

In Burma, NED funding is keeping the faint but fervent hopes for freedom and democracy alive. Let me explain why their work is so vital.

Burma and North Korea have a lot in common with the Stalinist era in the Soviet Union. A ruthless 400,000 man military force, led by the State Law and Order Restoration Council—SLORC—have systematically destroyed the education system and detained, tortured, and executed anyone opposing their brutal rule.

NED is a lifeline for the courageous opponents who resist SLORC inside Burma and the large, exiled community who struggle every day to restore the results of the 1990 elections and their leader Aung San Suu Kyi to office.

With less than $200,000 NED has kept alive the only uncensored, independent newspaper circulated inside Burma. The New Era, a monthly newspaper, is vital to the effort to raise awareness of SLORC's violations of human rights and civil liberties, to assure independent reporting of events and to provide counterbalance to SLORC's daily campaign to smear and slander Aung San Suu Kyi.

Let me point out that it's a crime in Burma to have a copy of this newspaper, yet in spite of threats of imprisonment and death, an extraordinary network of students and citizens take this risk to assure monthly delivery and circulation of the New Era.

The NED also supports the Democratic Voice of Burma which produces and transmits a daily morning and evening broadcast of news, features and ethnic language programming as well as broadcasting recordings of Aung San Suu Kyi's speeches, the texts of U.N. decisions and other information of intense interest to Burma's citizens.

Beyond sustaining the independent media, NED supports efforts to strengthen cooperation among the more than 15 ethnic groups which work in peaceful opposition to the military junta. This support has enabled the National Coalition Government of the Union of Burma under the direction of elected Prime Minister Dr. Sein Win to continue to represent to the outside world the views and aspirations of the legitimately elected parliamentarians of Burma.

Although they are victims of one of the world's most repressive regimes, Dr. Sein Win works with his colleagues inside and outside Burma, calling for peaceful dialog to restore democracy to his beleaguered nation.

Burma is just one example of the Endowment's exceptional service to the cause of democracy.

I have also observed the crucial role they have played in the New Independent States of the former Soviet Union.

Each of these countries illustrate my earlier point that while trappings of communism have been dismantled, it is far too early to judge the transition to democracy a complete success.

Communities across the region desperately need precisely the kind of training and support available through NED. One of the most compelling reasons why NED is so vital is illustrated by the work done through their core grantee in Russia.

Although we are all concerned about the reactionary elements which continue to dominate the Russian Parliament, there is some reason to be hopeful. During the last election, in every community and town where the International Republican Institute ran training programs and supported efforts to strengthen local political parties, reformers were elected to office—reformers who shared our interests in free market economies and individual liberties.

Obviously, reformers do not control a majority yet, but IRI's impressive record suggests we should be substantially expanding our support for endowment activities to secure the kinds of governments and societies which share our interests.

The cold war may be over, but repression and authoritarian impulses are alive and well.

NED nourishes the ambitions of all those who want to participate and shape their own great experiment in democracy—Muslim women in the Middle East, journalists under fire in Cambodia, trade unions in Belarus, political scientists in Azerbaijan, legal defense funds in Latin America—all benefit from NED's small grants—all contribute to building the foundation which sustains a healthy democracy.

The National Endowment for Democracy and its core grantees work citizen by citizen and community by community to transform individual aspirations of self-determination into the governing nations which Ronald Reagan defined so well—nations which preserve and protect individual liberty, representative government and the rule of law under God.

NED deserves our support. It does a good job and it does it in service to our national interests. Each democracy which grows is one more trading partner, one less crisis which may require our political or military intervention.

We abandon this extraordinary campaign for democracy gathering force at our own peril.

Ms. MIKULSKI. Mr. President, I am proud to strongly support and cosponsor the McConnell amendment to restore modest funding for the National Endowment for Democracy. I commend the distinguished chairman of the Foreign Operations Subcommittee for his continued leadership on this important matter.

The National Endowment for Democracy is a proven, cost-effective investment in democracy. It represents our national interests and our values.

As a member of the Commerce, State, Justice Subcommittee, I am disappointed that no funds were provided for a program that so effectively strengthens democracy around the world. Today we seek to restore funding to continue this important tool of American foreign policy.

The cold war may be over—but dictatorships and military juntas still exist. Democracy is still fragile in too many countries. Rigged elections still occur, and freedom of speech is not a universal right. The National Endowment for Democracy provides the tools of democracy. It encourages a free press, unions, and multiparty elections. It supports women's participation in the electoral process. It assists grassroots organizations that support democracy and human rights.

The National Endowment for Democracy has a remarkable track record. It was one of the early supporters of the Solidarity movement in Poland. It helped to draft South Africa's constitution.

But NED does not rest on it laurels. Today, in Albania, Burma, and Cuba—NED is supporting democracy. It provides assistance to the only independent newspaper in Bosnia. It is helping

to empower women in Turkey. It is helping Asian organizations to fight against the use of child labor.

Mr. President, the cold war is over—but American leadership is still important. We are still the strongest voice for democracy. I urge my colleagues to join me is supporting the National Endowment for Democracy—one of our most important tools in supporting democracy around the world.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I rise today to speak in favor of the pending amendment, which will restore $30 million of funding for the National Endowment for Democracy.

Mr. President, unless we reverse the decision that has been made by the Appropriations Committee, the Senate will be on record as eliminating this unique, flexible, low-cost, public-private partnership, an important foreign policy instrument, an instrument that has proven important today in furthering U.S. interests, as important today as it was in 1983 when established with the active support and leadership of President Ronald Reagan.

Mr. President, the Senate has debated the future of the National Endowment for Democracy virtually every year in recent years. Every year, proponents of continuing the Endowment have prevailed, but the fight has taken a toll. NED's budget has been whittled down by almost 15 percent over the last 3 years, and its authorization is now flat for the next 2 years. Any further cuts will severely hamper NED's ability to carry out its important programs. That is why so many of us are here today concerned that its current budget be sustained at the requested level of $30 million.

Mr. President, although we once again are debating NED's future, this recurring debate has been, and continues to be, more about our future and our view of the world than it does this one Federal initiative for democracy. It is also about how the American people view America's role in the world. In examining that world view, several fundamental questions must be answered.

First and foremost is the question of whether it is in the interest of the United States of America to remain actively engaged in world affairs.

Second, is it in our interest to creatively promote peaceful democratic change? To put it another way, is it in our interest to stay one step ahead of tomorrow's costly conflicts by promoting peaceful democratic change today?

Finally, does the National Endowment for Democracy make a positive contribution to advancing these interests?

Mr. President, I submit that the answer to each of these questions is yes. I would briefly wish to cite two examples.

First, in our own hemisphere, the United States has had a long and, I suggest, painful and destructive history of being involved in our hemisphere only when we faced an immediate security, political, or economic crisis. Once the crisis passed, our interests waned and then evaporated.

Mr. President, in large part because of some of the things that the United States led in the last 50 years, we now have a period of democratic government within our hemisphere that we have never known since Christopher Columbus discovered the new world. Those democracies, from Guatemala to Argentina, are new. They are enthusiastic. But they lack the kinds of deep roots that will assure their longevity. It is exactly nations such as that and building those roots that will sustain democracy that the National Endowment for Democracy has exhibited, and it is in exactly those circumstances within Latin America and the Caribbean that the endowment has played such an important role, and I submit will play an even more important role in the future.

Another prime example is China. Those who understand and care about the need for long-term democratic change in China strongly support the National Endowment for Democracy. That is because the National Endowment for Democracy is working with human rights activists to bring to life abuses by the current regime. The endowment is also creatively exploring openings at the local level to help officials establish independent elections.

NED is on the ground working in China every day in ways that very directly further United States national interests. No other agency of this Government is equipped to carry out the kind of innovative grassroots work as is the National Endowment for Democracy.

If we are to successfully engage China over the long term, if we are positively to influence United States-China relations, if we are to reverse our past history and demonstrate a sustained commitment to democratic institutions within our nearest neighbors in the Western Hemisphere, the National Endowment for Democracy must necessarily be an essential ingredient in that United States policy.

Indeed, the long-term impact we are confident NED to have in China is on display today in Mexico, where the Endowment's support of the Civic Alliance, a coalition of non-governmental organizations in that country, paved the way for electoral reform that resulted in the freest elections in Mexico's history. The result has been a deepening of democracy, and a sense among the Mexican people that casting ballots can produce positive change in their lives. The result is a government which is far more stable and responsive to the people's needs. The Mexican people benefit, and so do we.

Mr. President, China and Mexico are only two examples of NED's work. Indeed, the Endowment is helping dissidents in over 90 countries, including dissidents who are fighting for democratic change in Cuba, Burma, Nigeria, Belarus, Serbia, and Sudan. NED is working to strengthen democratic institutions in Russia, Ukraine, and South Africa. This is vitally important work. And there are many informed observers who see it the same way.

Former Secretaries of State Baker, Eagleburger, Haig, Kissinger, Shultz, and Vance are on record in support of NED. According to them:

> During this period of international change and uncertainty, the work of the NED continues to be an important bipartisan but non-government contributor to democratic reform and freedom. We consider the non-governmental character of the NED even more relevant today than it was at NED's founding * * *

Former National Security Advisors Allen, Carlucci, Brzezinski, and Scowcroft also are on record in support. They have stated that:

> The endowment, a small bipartisan institution with its roots in America's's private sector, operates in situations where direct government involvement is not appropriate.
>
> It is an exceptionally effective instrument in today's climate for reaching dedicated groups seeking to counter extreme nationalist and autocratic forces that are responsible for so much conflict and instability.
>
> Eliminating this program would be particularly unsettling to our friends around the world, and could be interpreted as sign of America's disengagement from the vital policy of supporting democracy. The endowment remains a critical and cost-effective investment in a more secure America.

Mr. President, I ask unanimous to have printed in the RECORD an exchange of correspondence I recently had with National Security Advisor Sandy Berger. He responded in a July 21 letter reaffirming strong administration support the NED and ''our opposition to any effort reduce or eliminate NED funding.''

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

THE WHITE HOUSE,
Washington, July 21, 1997.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR BOB: Thank you for your letter of July 16 regarding funding for the National Endowment for Democracy (NED).

I welcome the opportunity to reaffirm strong Administration support for the NED and our opposition to any effort to reduce or eliminate NED funding. As you correctly note, the President is a dedicated supporter of the NED, as it has been in the forefront of U.S. efforts to promote democracy, civil society and the rule of law around the world. Moreover, it has done so at very little cost to the American public, leveraging modest resources with great effectiveness.

I should also note that the NED, established by President Reagan and strongly supported by each of his successors, has served as a model for democracy-promotion efforts by our democratic friends and allies.

For all of these reasons, we enthusiastically endorse your efforts to restore funding for the NED, and we are prepared to work closely with you to ensure that objective.

Best regards.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President for National Security Affairs.

U.S. SENATE,
Washington, DC, July 16, 1997.

Hon. SAMUEL R. BERGER,
Assistant to the President for National Security Affairs, The White House, Washington, DC.

DEAR SANDY: The Commerce-Justice-State Appropriation will soon be debated on the Senate floor. As you may know, the Appropriations Committee is recommending that all funding for the National Endowment for Democracy be eliminated.

NED's numerous Senate supporters, including myself, regard this as a serious mistake, since it would cripple the ability of our country to assist the various democratic networks abroad whose continued sustenance is so critical to our national security.

The President has been a dedicated supporter of the Endowment in the past. It would be helpful if he would commit the Administration to reaffirming that support by backing the efforts of the Endowment's friends in the Senate to restore its funding.

Sincerely,

BOB GRAHAM,
U.S. Senator.

Mr. GRAHAM. Mr. President, I would like now to take this opportunity to clarify some misconceptions that have arisen regarding NED and its work over the years. Two of those misconceptions are contained in the report accompanying the bill we are now debating.

The report states that, because NED was created to support democratic movements behind the Iron Curtain, it is no longer needed. Nothing could be further from the truth. Indeed, NED was never intended to be a cold war institution.

In Ronald Reagan's speech that helped launch the Endowment, he offered the following vision of NED:

> . . . To foster the infrastructure of democracy—the system of a free press, unions, political parties, universities—which allows a people to choose their own way, to develop their own culture, to reconcile their own differences through peaceful means.

He referred to the work of Western European parties assisting counterpart institutions and of the foundation looking into ''how the United States can best contribute as a nation to the global campaign for democracy now gathering force.''

It is true that the Endowment supported Solidarity and other dissidents behind the Iron Curtain.

But that represented a small percentage of its funding. In fact, in the early years of the Endowment, approximately half of its funds went to support the growing democratic movements in Latin America.

This had nothing to do with the cold war and everything to do with the reason NED was created and the reason it exists today—because America believes that the spread of democracy is good for the people of these countries, and ultimately, for the people of the United States as well.

NED's work in the Middle East, in East Asia, in Central Asia, in Africa, in Bosnia, in Mexico, demonstrates that in the post-cold-war world, efforts to foster civil society are even more relevant today than they were when the Endowment was created.

The report accompanying this bill goes on to state that NED was never intended to be a ''private-public partnership.'' According to the Congressional Research Service, which carefully researched NED's legislative history, ''While NED was originally established as a private entity, private funding was not required. Neither the congressional debate in 1983, nor the National Endowment for Democracy Act—the law establishing NED—indicates private source funding would be required.''

It is true that NED does raise some funds in the private sector, primarily to support its International Forum for Democratic Studies, which is a research center and clearinghouse for worldwide information about democracy. In addition, NED has calculated that its funding leverages over 70 cents for every program dollar it grants.

The essential point, however, is that the founders of NED never imagined that this would be a privately funded effort. To the contrary, because NED serves the national interest, it is an entirely worthwhile expenditure of the Federal Government.

Several other misperceptions have dominated this debate in the past. Let me address them as well.

Opponents have suggested that the Endowment duplicates those of the Agency for International Development. AID Administrator Brian Atwood reported to the House Committee on International Relations in March 1996, following an extensive review of hundreds of programs funded by his agency and those of the Endowment. His report stated:

> We found that USAID and NED do not duplicate, but rather complement each other's efforts.

In the same report, Atwood outlined a series of steps that AID and NED have taken together to make sure that this lack of duplication continues.

NED and its supporters also have been accused of keeping a GAO report calling for a reassessment of NED's funding from being issued. This is a nonissue originally raised in print by a long time NED opponent. The facts are quite simple:

The General Accounting Office, after an exhaustive study of U.S. Government programs to promote democracy, concluded that there was no significant overlap between those funded by NED and official agencies.

Referring to the stops that have been taken between AID and NED to make sure the lack of duplication between their programs continues, a GAO official wrote to House International Relations Chairman GILMAN and Ranking Member HAMILTON that the Agency's concerns about potential overlap had been allayed.

Another charge frequently made against NED is its funding is used disproportionately for travel. Some of the over 300 programs that are funded annually by the Endowment involve the use of experts from the United States and abroad who travel pro bono basis to share their knowledge and experiences with grassroots Democrats.

Many of these trips are under adverse circumstances to places that can hardly be regarded as vacation spots and the trips are not only working trips but frequently quite rigorous for participants. The amount of free time that is donated by these experts is rather significant in dollar terms.

Opponents also charge NED with funding meaningless conferences. NED funds in fact are used to assist organizations working inside countries. Occasionally NED funds gatherings of democrats in exile who cannot operate in their home countries. Countries such as China and Cuba fall in this category.

An example of a conference pointed to as insignificant by some NED critics is a meeting held in 1995 in Zagreb, Croatia. In fact this particular conference brought together activists from all the countries of the former Yugoslavia at the height of the war to exchange information.

The meeting succeeded in matching funders and civic groups in the region in desperate need of help. Apart from bringing together democrats in a war situation the meeting has led to a number of worthwhile projects in a region that desperately needs to build up its civil society.

Mr. President, NED deserves our support. I urge my colleagues to support a restoration of this funding.

Mr. KERREY. Mr. President, I rise today to offer my support for the pending amendment. I have long been a supporter of the National Endowment for Democracy because I believe that it serves to promote U.S. interests by fostering democracy throughout the world.

NED was established by Congress in 1983 as a nonprofit, bipartisan organization designed to promote democratic values by encouraging the development of democracy in a manner consistent with U.S. interests, assisting pro-democracy groups abroad, and strengthening electoral processes and democratic institutions. NED accomplishes these goals by providing funding to a wide variety of grantees that operate programs in more than 90 countries throughout the world.

Mr. President, many of my colleagues may be aware of the work that NED-funded grantees have done in Eastern Europe and the countries of the former Soviet Union. These Newly Independent States have benefited immensely from programs designed to help develop the rule of law, grassroots campaigns, party organization, and private sector enterprise. And while the development of truly democratic institutions is a slow process, I believe that over the long run it remains in the interest of the United States to continue our commitment to those who are struggling to build stable, democratic governments.

While NED's work in the newly independent states is commendable, of

equal importance—and often with less publicity—NED grantees are also hard at work in countries like Nigeria, Burma, Cuba, and Mongolia where pro-democracy forces are most in need of assistance, and where the ability of the United States to make a positive impact is at its greatest.

Mr. President, even though in the past decade the world has witnessed a remarkable transformation, and the forces of democracy are on an upswing throughout the world, it remains a fact that approximately two-fifths of the world's population continues to live under authoritarian rule. There clearly remains a need for continued vigilance and support of those groups still striving to achieve democratic reforms. While Congress may have created the National Endowment for Democracy during the cold war, I firmly believe that fostering democracy remains as important today as it was 14 years ago.

Because of the continued need for U.S. assistance to pro-democracy forces, I was disappointed that the Senate subcommittee did not fund the President's request of $30 million for NED. It is for this reason that I fully support the amendment before the Senate that will fund the National Endowment for Democracy for fiscal year 1998.

Mr. President, there is a reason that four former National Security Advisers to the President have said that the elimination of NED funding would signal America's disengagement from the vital policy of supporting democracy. There is a reason that seven former Secretaries of State from both Republican and Democratic administrations have voiced their belief that NED funding is as vital today as when the program was created. And finally, there is a reason that brave, pro-democracy activists like Harry Wu and Vaclav Havel tell us that NED funding is essential to advancing the cause of democracy. Mr. President, the reason is that they, like many of my colleagues here today, realize that America must maintain its commitment to the ideals and principles of democracy.

Mr. DODD. Mr. President, I rise to support the restoration of funding for the National Endowment for Democracy in the Justice, State, Commerce appropriations bill. The amount is very modest—$30 million—and the same level of funding as the NED currently receives for this fiscal year.

What is the NED? It is a grant-making organization that is governed by an independent, nonpartisan board of directors. NED monies are utilized to fund the activities of the four independent institutes—the National Democratic Institute, the International Republican Institute, the Free Trade Union Institute, and Center for International Private Enterprise.

In addition to funding the programs of these institutes, NED also provides grants directly to support democratic activist groups throughout the world. This includes grass roots organizations in Nigeria and Zaire, women's groups in moderate Islamic countries, civic groups who worked to make the recently held Mexican elections open and transparent, pro-democracy groups in Cuba, China and Burma. These are just a small handful of the activities funded by NED.

The endowment also sponsors the Journal of Democracy, a well known and highly regarded scholarly publication on global democracy issues. The journal is part of the work of the International Forum for Democratic Studies—NED's research center. In addition to the publication of the journal, the Forum holds important conferences on issues of particular relevance to democratic societies, such as civil-military relations, economic reform, and the role of political parties.

In other words, NED has become an important focal point for democracy-promotion activities around the globe.

For those who say they don't know what NED or the grantee agencies have been doing with the funds they receive, I would urge them to take a long look at the annual report which NED issues every year. I have with me the latest report for 1996—that report goes into great detail where the monies are being spent. It is my view that if my colleagues would take a look at this publication they would be impressed with the extensive activities being undertaken with relatively small amounts of money.

Mr. President, I strongly agree with President Clinton's assessment of the NED. Earlier this year he said of the NED, ''through its everyday efforts, the Endowment provides renewed evidence of the universality of the democratic ideal and of the benefits to our Nation of our continued international engagement.''

I urge my colleagues to support the restoration of funding for the Endowment.

Mr. BIDEN. Mr. President, I rise in support of the amendment to restore funding for the National Endowment for Democracy [NED].

Last month the Senate expressed its overwhelming support for the NED when it passed the Foreign Affairs Reform and Restructuring Act of 1997—90 to 5. That legislation provided $30 million, full funding, for the NED.

Even more recently we voted unanimously to congratulate Mexico on its elections. The NED provided critical support to the Civic Alliance in Mexico, a nonprofit election monitoring and civic education group that played a key role in that success story.

When the Reagan administration proposed the NED, I thought it was a bad idea and voted against it. After seeing all of the good work they have done and are doing, I have been converted to a supporter.

The NED continues to play a critical role in promoting democracy and democratic values, and is vital to U.S. national interests.

Mr. President, let me make this clear—NED is not a foreign aid program. This is because it builds self-sufficiency by working with indigenous groups that demonstrate a real commitment to democratic principles.

NED only receives $30 million, but is very cost-effective. It makes hundreds of grants annually in over 90 countries for civic education, media, human rights, and other organizations dedicated to supporting those who desire democracy.

NED funds support political party training and the establishment of opposition newspapers, helping to promote an independent press. For example, NED has done important work in China through its support of Chinese human rights activists.

Another well-known example is Burma, where the NED has strongly supported Aung San Suu Kyi and the pro-democracy movement there.

Still another important aspect of the NED is that it is rooted in the U.S. private sector, and operates in situations where direct government involvement is not appropriate.

It is particularly effective in reaching those groups seeking to counter nationalist and autocratic forces that are responsible for so much conflict and instability.

The NED provides a successful and cost-effective mechanism for spreading our democratic values and enhancing American security.

This point was made today in a Wall Street Journal editorial that highlights and praises the NED's effective and innovative approach to democracy promotion.

Elimination of this program could be interpreted as a sign of America's disengagement from the vital policy of supporting democracy around the globe.

I urge my colleagues to continue to support this critical democracy-building organization.

Mr. HATCH. Mr. President, once more we are engaging in the increasingly repetitive argument over whether the U.S. Senate should support one of our country's most valuable tools of foreign policy—the National Endowment for Democracy. The Senate subcommittee zeroed out the administration request for $30 million for the Endowment, although the House of Representatives granted it full funding. Today, Senators LUGAR and others are offering an amendment that will restore the Senate's support for full funding for the National Endowment for Democracy (NED), and I encourage my colleagues to vote in favor of this amendment.

Mr. President, I've been in this body for the entire history of the National Endowment for Democracy, and I make no reservations about my wholehearted support for this organization. My colleagues know I was an original supporter of the NED, and I am a stronger supporter today than I was then.

President Reagan clearly summarized the NED's mission when he stated at its inception:

The objective I propose is quite simple to state: to foster the infrastructure of democracy—the system of a free press, unions, political parties, universities—which allows a people to choose their own way, to develop their own culture, to reconcile their own differences through peaceful means.

I believe that mission statement is as relevant to our goals today as it was in 1982, when the National Endowment for Democracy was founded. And I find it illogical and disingenuous that some argue that the Endowment is a cold war institution which, because we have won the cold war, is no longer relevant. Many appear to agree with me. In a September 1995 letter to our congressional leadership, seven former Secretaries of State said:

During this period of international change and uncertainty, the work of the NED continues to be an important bipartisan but non-governmental contributor to democratic reform and freedom.

It appears that a few still believe, illogically, that because the NED was engaged in fighting for democracy during the cold war, it is no longer relevant. This reasoning is unsound, based on facts of the past, and realities of the present.

First, the past. The NED did have some high-profile involvement with organizations such as Solidarity, which were critical in loosening Moscow's grip on its captive nations. I applaud the NED for that, as I applaud the many other organizations, such as the International Labor Office and other great anti-communists such as Irving Brown, who worked with us to undermine Soviet totalitarian control. But anyone who believes that the cold war was the central or only focus of the NED may not have all the facts.

It is a fact, for example, that during the early days of the National Endowment for Democracy, approximately half of NED's funds were directed toward Latin America. The 1980's, you will recall, Mr. President, was the decade when democracy swept across the Latin American continent. The people of Latin America, and their brave democratic leaders, deserve the credit for this. But it was the wisdom of U.S. foreign policy—and the participation from the NED—that provided important diplomatic and practical support.

Second, the present. The obvious fact is, Mr. President, that support for democracy remains a necessary goal of U.S. foreign policy. Students of history know that democracies are less likely to try to settle their internal and external conflicts with a resort to violence. Observers of current affairs recognize that, while democracy continues to spread, many parts of the world are in desperate need for further democratic development. It is no coincidence indeed that many of these areas are areas where U.S. foreign policy goals are and will be challenged.

To believe that supporting democracy was a need solely of the cold war is a notion that ignores the basic reality that the world remains full of nations where democracy needs support. And where democracy advances, the risk of conflict that could require a U.S. response declines.

That is why a number of my friends—Jack Kemp, Steve Forbes, Bill Bennett, Jeane Kirkpatrick, Vin Weber, and Lamar Alexander—have circulated a letter from their organization, Empower America, which I would like to quote:

NED helps brave people around the world who are engaged in difficult struggles for freedom. These are America's natural friends. Resisting the enemies of freedom, they need our continual solidarity.

A case in point is China, where the Endowment supports various pro-democracy networks as well as the democracy movements in Tibet and Hong Kong . . .

China is but one example of how NED, which works in over 90 countries, is as relevant to the post-Cold War world as it was in the struggle against Soviet totalitarianism. Examples could be cited from other difficult situations, from Burma to Cuba, from the Balkans to the Middle East. The kind of political assistance NED provides is not foreign aid. NED is more than a program; it is an instrument for transmitting in a peaceful way American democratic values to a world that looks to us to maintain our leadership role.

NED works to expand human freedom and helps people help themselves. It promotes American values and interests. It is realistic and idealistic at the same time. It internationalist in the best sense of that term. It is truly our kind of program.

Mr. President, among my friends at Empower America, you will not find one person who believes the United States should be the world's policeman. Most of these individuals are very skeptical—like me—about some of this country's recent unilateral as well as multilateral deployments.

But none of these individuals believes that the $30 million spent on the National Endowment for Democracy is anything but a completely worthwhile expenditure that supports our national interests by supporting the spread of democracy around the world.

The cold war is over, Mr. President, and we won it. We won it with a strong defense posture, with a policy of engagement in Latin America, Afghanistan, and central Europe. And we won it by standing with democrats around the world. Despite the end of the cold war, there are many democratic movements that need our support. As the Empower America letter said: ". . . the brave people around the world who are engaged in difficult struggles for freedom . . . these are America's natural friends."

I wish that we could do more for these friends of America, Mr. President. But the reality of foreign affairs has always been limited by the need to prioritize limited resources. In my view, an expenditure of $30 million to support the many activities of the NED throughout the world may be one of the most cost-effective investments we make in the support of American's interests overseas.

The critics of the NED should review the Endowment's materials. For example, this body has spent a large amount of time debating how we should relate to the rising power of authoritarian China. While we debate the value of sanctions or engagement, who in this body suggests that the support for local elections in China that is conducted by NED with the International Republican Institute is anything but an enormously positive development? Who suggests that NED-supported Chinese activists who monitor and report on the repression of dissidents must not be continued—so that lawmakers around the world can know the truth when we debate complicated issues of engaging China? Who believes that Harry Wu's research foundation—dedicated to monitoring the abhorrent use of prison labor—should not be supported, so that we know how China abuses our trade relations?

Who believes, Mr. President, that the many programs promoting open press, reasoned democratic debate and the rule of law that NED supports throughout the Arab world are not supporting America's goals in that region? Can anyone who is aware of America's uncertain relations with the Islamic world declare that it is not in our interest to promote democratic values there?

Mr. President, I've cited a few examples and endorsements from prominent U.S. foreign policymakers—Republican and Democrat—but I'd like to close my remarks by quoting Martin Lee, who my colleagues surely recognize as Hong Kong's voice of democracy. As we know, the reversion to the People's Republic of China opens a new—and uncertain—page in the recent history of democracy in Hong Kong.

Martin Lee recently wrote a letter to my colleague, Senator MACK. Members of this body know that Senator MACK has devoted a large amount of his time to the difficult process of Hong Kong's reversion, and he is one of the leaders who will increase his attentions to the former British colony now that July 1 has past. Martin Lee wrote:

In Hong Kong and elsewhere in Asia and around the world, the struggle to preserve democracy, political freedom and the rule of law is far from being won. But by supporting key human rights organizations which work for development of democracy and the preservation of the rule of law and human rights in Hong Kong, the Endowment's work in Hong Kong has had profound effect at a critical time. During what I realize is a time of shrinking budgets, I cannot think of better value for money than the National Endowment for Democracy.

Mr. President, Martin Lee is correct: "The struggle to preserve democracy, political freedom and the rule of law is far from being won." What a sorry signal the United States would be giving democrats struggling around the world if we ended our support for the National Endowment for Democracy. What a shortsighted notion it would be to save $30 million by abandoning our support for an organization that promotes our political values around the world.

I urge my colleagues to support full funding for the National Endowment for Democracy.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. FEINSTEIN. I yield the floor, Mr. President, to the Senator from Maryland.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator can't yield the floor. But I will recognize the Senator from Maryland.

The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in strong support for the amendment now pending. The National Endowment for Democracy has done some extremely effective work around the world in strengthening and assisting in the development of democratic institutions and protecting individual rights and freedoms. Endowment programs have assisted grassroots organizations and individuals in more than 90 countries across the globe.

A great number of distinguished individuals have walked through the Halls of the Capitol over the years whom we have recognized as fighters for human rights, freedom, and democracy. They are leaders from abroad who have come to visit the U.S. Congress as a sign of their respect for American democracy. They have led the way toward democracy and human rights, and freedom in their own countries. In expressing their support for the National Endowment for Democracy, they have underscored the critical assistance that they have received from it, which made it possible for them to pursue democratic efforts in their own countries.

The National Endowment for Democracy has enjoyed broad bipartisan support since it was established in 1983 under the Presidency of Ronald Reagan. Seven former Secretaries of State—James Baker, Lawrence Eagleburger, Alexander Haig, Henry Kissinger, Edmund Muskie, George Shultz, and Cyrus Vance—wrote to the leadership of the Congress in 1995 to express their support for continuing funding of the National Endowment for Democracy. Their letter and stated, and I quote:

> During this period of international change and uncertainty, the work of the NED continues to be an important bipartisan but nongovernmental contributor to democratic reform and freedom. We consider the nongovernmental character of the NED even more relevant today than it was at NED's founding 12 years ago.

The NED serves an important role because of the fact that it can operate as a nongovernmental entity. It can support nongovernmental organizations which, in turn, provide opportunities that would not otherwise be available if these activities were undertaken by a government or governmental agency. This is an extremely important dimension to the work of the National Endowment for Democracy.

Former national security advisers of previous administrations and the President's current Adviser for National Security Affairs, Sandy Berger, have expressed their strong support for the NED. Mr. Berger noted in his letter to Members of Congress this week:

> I welcome the opportunity to reaffirm strong administration support for the NED and our opposition to any effort to reduce or eliminate NED funding . . . The President is a dedicated supporter of the NED, as it has been in the forefront of U.S. efforts to promote democracy, civil society and the rule of law around the world. Moreover, it has done so at very little cost to the American public, leveraging modest resources with great effectiveness.

The sweeping and profound changes resulting from the end of the cold war provide ample reason for why we continue to need institutions like the NED, which can operate in a cost-effective manner and at the same time promote our interests and values. Many of the new democracies that have emerged from the implosion of the Soviet Union and the collapse of the Iron Curtain have benefited from the assistance NED and its grantees have provided. Those who paved the way for freedom and democracy in their own countries have consistently testified as to the importance of NED support to the success of their efforts.

In fact, President Vaclav Havel of the Czech Republic stated that ''the National Democratic Institute was one of the first supporting actors in the democratic revolution in our country.''

And others have made similar statements with respect to the activities of the two party organizations, the business groups, and the labor groups that are the core grantees of NED.

This is a program that is working. It is producing significant results around the world.

I strongly support this amendment, and urge my colleagues to adopt it.

I yield the floor.

Mr. BUMPERS addressed the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, first of all, I would like to say to my very dear friend, Senator FEINSTEIN from California, who is anxiously awaiting the floor so she can get into the ninth circuit debate, that I am going to object to moving to that amendment until this amendment is disposed of.

Let me also say that I am prepared to enter into a time agreement, but not yet.

Let me start off by saying that Rasputin was a piker compared to the National Endowment for Democracy. It took him a long time to die, and it has just taken forever for this boondoggle to die.

I have heard so may people in this body lament the size of Government, the waste of Government, the terribleness of Government, and here is $30 million of wasteful Government spending. There was actually an effort to get NED's appropriation up to $50 million 3 years ago.

I can tell you that, in this Senator's opinion, the National Endowment for Democracy is without question the biggest waste of money I can think of next to the space station. That is saying something.

It is a cold war relic. Everybody in this body knows that the National Endowment for Democracy was started in 1983 as an answer to communism in the world. We were not only spending $250 to $300 billion a year on defense at that point—that was not enough to contain communism around the world—we decided to add $18 million to bring democracy to the world. We started this program with $18 million in 1983, and a year after that, it soared up to about $23 million; the year after that, $27 million, then $35 million. Then, finally, I was able to get it back to $30 million 2 years ago. And this year, in this bill, thanks to the very good judgment of our chairman of this subcommittee, Senator GREGG of New Hampshire, it was sacked as it richly deserved.

Mr. President, we have been holding hearings in the Governmental Affairs Committee. And the headlines in the paper since January have been in anticipation of those hearings about foreign influence in American elections. I want to say that if China had had any judgment at all they would have consulted with the NED before they started trying to influence American elections.

The National Endowment for Democracy has as good a record of meddling in foreign elections as any organization the Earth has ever known. They tried to clean it up a little bit. They used to be very overt, and made no bones about who they were giving money to. But they are still giving out money to influence foreign elections.

One of the things that is the most intriguing of all is: Who do they give this $30 million to?

At the expense of sounding terribly arrogant, I would just like to say that on the debate on the space station which occurred day before yesterday, I daresay if that debate were held on national television before an American audience of every voter in America, the space station would be dead, dead, dead, at this moment, by an overwhelming vote. But, unhappily, all the people who might be watching that telecast wouldn't be interested in those few jobs that NASA has put in their State.

But now when it comes to boondoggles and giving away money, I invite my colleagues' attention to this:

What happens to this $30 million? It took me 2 or 3 years for the realization really to soak in that this actually is the case.

Out of the $30 million, first of all, 15 percent of it, 15 percent of it, or $4.5 million, goes for NED Administration. And if you look at the way the money is spent, you will find a lot of it going for first class airfare to transport people all over the world, people who every year will write letters to the people who are engaged in this debate. They will write letters about what a wonderful program NED is.

You think of it. If a food stamp program had a 15 percent administrative cost, we would kill it dead. We would not tolerate that for a moment. But we are willing to put aside $4.5 million, 15 percent of this $30 million, and allow NED to use that for administrative expense.

But that is not the worst of it. We give the money out as follows. Listen to this, colleagues. CIPE—that's a nice acronym, isn't it. CIPE gets 13.75 percent of the money—$4.125 million. Who is CIPE? I bet you never heard of them. CIPE stands for Center for International Private Enterprise, but they are really the U.S. Chamber of Commerce. This is a little offspring of the chamber of commerce, CIPE. We give them a neat $4,125,000 out of this $30 million.

Let me ask you this: how much of that do you think they spend on administration? Bear in mind, 15 percent comes off the top for NED administration. Then you give the chamber of commerce $4.125 million, and what do you think their administrative expense is?

Then to even things up, we give an organization called FTUI, to make things even we give them 13.75 percent, also $4,125,000, the same amount we give the chamber of commerce. Who is FTUI? The Free Trade Union Institute. Why, that's the AFL-CIO. You cannot give money to the chamber of commerce unless you are willing to balance it out and give the AFL-CIO another $4,125,000. And what do you think their administrative expense is? Lord only knows. I cannot find out.

So you have the administrative expense of the chamber; you have the administrative expense of the AFL-CIO; you have the 15 percent for NED right off the top.

We are not finished. Now we go to the IRI. Whoever heard of the IRI? Now, this is going to be hard for you to believe. I will tell you who the IRI is. That is the International Republican Institute—the Republican Party. Can you believe this, another 13.75 percent, $4,125,000. We have to be evenhanded. We have to give the chamber $4.125 million, have to give the AFL-CIO $4.125 million, have to give the Republican Party $4.125 million.

And then we get down to the fourth organization, NDI. Who do you think NDI is? Why, you guessed it. It is the National Democratic Institute—the Democratic Party. And we are going to give them 13.75 percent. They get $4,125,000. I will say one thing. What do you think the administrative expense is for all those four organizations on top of the 15 percent administrative expense of NED? Who knows? The National Endowment for Democracy is an egalitarian group; they treat everybody the same. But some are more equal than others.

Here is the portion for everybody else. After you get through giving it out most of the money to all these groups who we know will send members to the Senate every year to tell us how wonderful NED is so we will give them another $30 million the next year after they evenhandedly give everybody $4.125 million in exchange for writing Senators here saying how wonderful it is, they have $9 million left. That's what everybody else gets.

Do you know what that amounts to? It comes to an average of $41,096 for all the grantees who are not part of the chamber of commerce, the AFL-CIO, the Democratic Party or the Republican Party. Everybody else, the other grantees—there are 218 of them for 1996, 218 grants made with the remaining $9 million, gets an average of $41,096. Now, ain't that something—218 grants. When you get past the big boys, the Republicans, Democrats, labor and the chamber, you have 218 grants, $41,096 each. What are they going to do with that? That will not even buy enough first class air tickets to get to the election in Cambodia or wherever. And what is the administrative expense for those 218 grantees? You talk about money well spent and saving the world through democracy.

Mr. President, we spend on the Agency for International Development about $4 billion a year. And did you know that I am a great champion of that program? And do you know what that is for? That is to help countries help themselves. That is to help them generate electricity so they can develop. That is to teach them how to plant crops so they can feed themselves. And it is also designed to make those people feel kindly toward the greatest democracy of all, the United States of America. And about $450 million of AID's budget is for democracy-building projects.

And then there is Public Law 480, popularly known as Food for Peace—over $1 billion a year. Do you know who favors that? The Senator from Arkansas. We help feed people who cannot feed themselves. Mr. President, Public Law 480 has been around as long or longer than any Member of the Senate, with a couple of exceptions, and it is designed to help people keep from starving.

Do you know what else it is designed to do? It is designed to help them feel kindly toward the United States, that great citadel of democracy.

Then, Mr. President, there is that $13 to $14 billion a year we spend on that terrible thing that the American people have such misconceptions about called foreign aid. And you know something else? I vote for that. I vote for foreign aid. Never made any bones about it. No. 1, it helps farmers because that money also buys food. It helps industry because people buy American products with the aid we give them. It is money well spent.

Do you know what else we expect to get out of it? We expect people to want to be like us. We expect them to want to be democratic. We expect them to want to be free and enjoy the same kinds of freedoms we enjoy here in the United States.

I have just finished listing for you all those billions of dollars we spend for what? To try to build democracy around the world. What good do you think this $30 million will do in changing China from a Communist nation to a free democracy? None. It is utter waste, $30 paltry million dollars that ought to be saved. It is nothing.

You have the Voice of America. You have these radio programs to influence the rest of the world about the joys of democracy and how great the United States is. And $450 million for the Agency for International Development is for democracy building. This is nothing in the world, but in 1983, when Ronald Reagan was President and everybody thought the Communists were going to come up the Potomac River and get us any minute, we thought, well, we will just dump a little more money into this democracy-building business.

You know something else. It was never intended—I want everybody to understand this. It was never intended that the National Endowment for Democracy would be a federally funded agency. We started it off with $18 million with the clear understanding that within a short period of time they were going to have to stand on their own feet with private contributions. We never intended for that to be another perpetual Government program. And so last year, 1996, do you know what their report shows? Out of $30 million, they collected from the private sector $541,000. And if I am not mistaken that is their high watermark.

It is just like so many other Federal programs. It is a program that becomes self-perpetuating because a lot of people find it to their advantage. It is difficult when you think about how I was trying to save $100 billion, 2 days ago, on the space station. Here I find myself just as exercised, just as exercised about $30 million because it doesn't really matter. It is money that ought not to be spent. The taxpayers have a right to expect more of us. Can you imagine, Mr. President, can you imagine members of the AFL-CIO and the Chamber of Commerce sitting around the table with some people from a foreign country and trying to explain the joys of democracy, the Chamber member representing what democracy means to him, the head of the labor union telling what democracy means to him.

Why, if those people on the other side were not confused beforehand——

Mr. GREGG. Will the Senator yield?

Mr. BUMPERS. I will be happy to yield for a question.

Mr. GREGG. I was wondering if the Senator would be willing to enter into a time agreement so that we could move on with the bill. The Senator mentioned that after he had spoken for a while he might be willing to consider that. He has spoken now for approximately 40 minutes and the other side has taken approximately the same amount of time.

I was wondering if we could enter an agreement which would limit debate to an additional hour with the time equally divided between the proponents and the opponents and have a vote here at 4:30.

Mr. BUMPERS. Mr. President, let me say to my distinguished chairman, of course, I sit on this subcommittee and he is doing an excellent job. One of the greatest day's work he ever did in his life was when he torpedoed NED in the bill. But let me say, to accommodate the chairman, I will be delighted to agree to 1 hour equally divided, 30 minutes on a side, with a vote to occur at 4:30.

Mr. GREGG. If there is no objection from the other side, I would ask unanimous consent that the vote on the pending amendment be at 4:30, with the hour equally divided.

I would ask, additionally, after the vote on the second-degree amendment offered by Senator MCCONNELL, if the next matter before the body could be the matter of the ninth circuit and the amendment of the Senator from California.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I would ask in that unanimous-consent agreement I be allowed 10 minutes.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. If I may ask——

The PRESIDING OFFICER. Is there objection to the request?

Mr. BUMPERS. There is objection—reserving the right to object, is the request of the Senator from New Hampshire on the McConnell amendment or on the Lugar amendment?

Mr. GREGG. I believe the pending amendment is the second-degree. Whatever amendment is presently pending would be the intention of the Senator.

The PRESIDING OFFICER. The current amendment which is pending is Amendment 982 offered by the Senator from Kentucky, [Mr. MCCONNELL].

Mr. GREGG. And the yeas and nays have been asked on that, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GREGG. And the Senator from Arizona is asking for 10 minutes. I would suggest that neither myself nor the Senator from South Carolina, both of whom are involved in this issue, have had an opportunity to speak. So we may have to add a little bit more time. Why don't we add an additional—have the vote be at quarter of 5, add an additional 15 minutes with the time, an hour and 15 minutes equally divided, and 10 minutes to the Senator from Arizona. Is that acceptable?

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Reserving the right to object.

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have been on the floor for the substantial period of this debate. It is my intention to speak on this as well. I have no objection to a time agreement provided there is sufficient time.

Mr. GREGG. How much time would the Senator need?

Mr. DORGAN. Mr. President, 10 or 15 minutes. I guess I would like 15 minutes. I may not use all of it, but I have waited for some while, and I intend to speak in support of it.

Mr. GREGG. The Senator from North Dakota would like 15 minutes, the Senator from Arizona—does the Senator rise in support or opposition to the amendment?

Mr. MCCAIN. I rise in support of the Lugar amendment.

Mr. GREGG. Well, I represent we will get the Senator his time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, it would be my intention at the conclusion of that time to move to table the Lugar amendment. Of course, if that would prevail, it would take the McConnell amendment with it. When we talk about voting at 4:30, I want to reserve the right to make that motion to table at the expiration of that period of time. So the unanimous-consent agreement does not necessarily pertain to the McConnell amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask unanimous consent, or I will ask unanimous consent as a part of my assent to the idea before us, that I have the right to withdraw my amendment, and I would say, for clarity of all sides, my intent would be to send an amendment to the desk promptly thereafter. I simply want to make certain that all sides know this, so there is not any misunderstanding. But I reserve the right to object until I am certain I could withdraw my amendment and send an amendment to the desk.

Several Senators addressed the Chair.

Mr. GREGG. Mr. President, I withdraw my request, and we will just proceed here and see what happens.

The PRESIDING OFFICER. The Senator from Arkansas retains the floor.

Mr. BUMPERS. Mr. President, I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in opposition to the amendment that is pending and in support of the underlying bill, obviously. I think the Senator from Arkansas had certainly outlined rather effectively the problems with NED, the expense of this program, and the fact that the program, for all intents and purposes, involves a passing of Federal tax dollars, hard-earned tax dollars, on to a number of groups for the purposes of exercises which are of questionable value in the post-cold-war period: the Democratic National Committee, Republican National Committee, the AFL-CIO, and the Chamber of Commerce being the primary beneficiaries of this fund.

I call this the club fund. You know, here in Washington there are a lot of folks who are sort of part of a club. The city has a bit of a clubby atmosphere. It is a you-scratch-my-back-and-I-scratch-your-back club. This is sort of one of the funding mechanisms for the club. I am not too surprised that some community of the press supports the exercise because the club, regrettably, involves some of the press, too. But, as a practical matter, there is very little substance done here.

Let's take China, for example. I suppose if there is an example of a nation where we have concerns about democracy and its impact on our future as a country, China is probably it. How valuable is NED in relationship to China? Well, last year NED sent a lot of people over there. A lot of people took airline flights over there. There were a lot of good trips, I am sure, to China. China is a nice place to visit. I am absolutely sure of that. A lot of people had an opportunity to go there, people who were members of the Republican National Committee, Democratic National Committee, AFL-CIO activists, Chamber of Commerce activists, people who are friends—a lot of people who were friends of members of these different organizations went on trips. All of them went to China for a variety of meetings, and NED committed $2 million for various programs. They had about, I think, about 20 or 30 different meetings in China to tell China how to become a democracy; $20 million for 1 billion people. That works out to about 2 cents a person. I think they must have distributed toothpicks that said ''vote'' on them for 2 cents a person.

The fact is, it had absolutely no impact. All it did was represent a nice trip for a bunch of folks from the United States who probably looked forward to going to China and meeting some folks in China.

The inverse, of course, is that when China tried to influence our elections, I

think we generated a fair amount of outrage here in the United States about that. We are still looking for Charlie Trie. Maybe he is working for NED in China now. The fact is, the influence of elections in the United States by a foreign country tends to really antagonize a few people—as it should, in the post-cold-war period. And vice versa. You know? Vice versa.

So what's the purpose of NED? The purpose of NED is to, for the most part, be a nice gathering of folks who find it is a very effective way to fund various trips, various get-togethers around the globe. What does this amendment suggest we do to pay for these trips, to pay for this club activity? What is the suggestion of the way they are going to fund this? They are going to take the money out of the State Department capital account.

Yes, the White House did not ask for as much money in the capital account as we put into it, because the White House wanted to spend the money on the United Nations and on international operations, international organizations. So they raided that fund for that account. That is a little more legitimate than NED but not a whole lot more legitimate than NED when you are talking about the capital account of the State Department.

I submit to the people who are supporting this amendment that maybe they should read a few of the reports from the State Department about the present status of the State Department's capital situation. Maybe the people who offered this amendment would like to call up the United States on a dial telephone from Lagos. Maybe the people who offered this amendment would like to be working on a Wang computer that cannot communicate with any other computer in the United States. That is what we subject our people to at the State Department.

The present infrastructure of the State Department is a disaster. They can't call home. And the practical effect of this amendment is that a lot of them aren't going to be able to call home. Or maybe when you have a constituent who has a family member who has run into a serious problem in one of these Third World nations and you are out trying to help your constituent out, you are going to be really upset that the State Department can't communicate with its people in the field effectively because 82 percent of the State Department radio equipment, 55 percent of their computer equipment, and 40 percent of their telephone equipment is totally obsolete.

So what does this amendment suggest? It suggests we keep it obsolete so we can fund a bunch of folks at the Republican National Committee, Democratic National Committee, the AFL–CIO, and the Chamber of Commerce—who happen to have the best computer equipment in the world, the best communication equipment in the world—so we can fund them for their trips. What an absolute outrage.

I cannot believe that we would consider doing this to the people who work at the State Department. It is an absolute affront. This is important. Yes, somebody said, this is serious business. You are darned right this is serious business. This is very serious business. You go out to these embassies in some of these Third World countries and you see what we subject our people to, and it is not right. They take their families along with them. They take their families along with them, and they get into some of these countries where Americans aren't all that popular, and their families are driving to work some morning, or driving to school, and their lives are threatened and they have no secure vehicles to travel in because we can't fund it—because we can't fund it. But we can fund a first-class airline ticket to China for somebody here in the United States to go to a meeting to talk about stuff and come back and have a good time on the trip. But we can't fund the protection of an American family serving overseas. It's really incredible.

I heard somebody on this floor citing an editorial from the Wall Street Journal, or some commentary in the Wall Street Journal. You tell me the last time a reporter at the Wall Street Journal used a Wang computer to file their story. You tell me when that happened. Wang was a great company. It started right down the road from where I live. We were very sad to see it go by the way. The fact is that it did. Yet we still ask our people in the field to use Wang computers.

This amendment takes from the capacity of the guys and women who are in the field doing the job of presenting American policy, it takes out of their hands the capacity to do their job and gives it to a bunch of folks who may be well intentioned but who do not accomplish a whole lot.

I just find it unbelievable that the account into which you would dip to pay for the NED is the account which is absolutely critical to upgrading the State Department and giving our people in the field an adequate opportunity to represent us. But that is the amendment, and I look forward to this vote with some enthusiasm because this is going to be a real test of who really cares about the future of our State Department.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, you know now why, in my opening statement on this particular measure, I said I was so enthused about working with the distinguished chairman, the Senator from New Hampshire—he laid it on the line. Last December we had a NATO conference in Paris whereby we elected the distinguished Senator from Delaware the president of the North Atlantic Treaty Organization Council. Senator ROTH is now the president.

Pamela Harriman, the distinguished Ambassador, was there, and she knew that I was ranking member and had been the chairman. The word had gotten around of our attempt to try to bring the State Department from the Third World into the first world. I am aghast here that those who chaired foreign relations would put in such an amendment, to tell you the truth. I feel just as strongly as the Senator from New Hampshire. Because Pamela Harriman came to me and said, ''Can I meet you in the morning?'' Then we met for the entire morning. We spent the morning together.

Exactly what the Senator from New Hampshire said was pointed out. Although the Embassy in Paris was nice, their equipment was outdated. Their computers were totally obsolete. They couldn't even get replacement parts for it. Their communications had broken down. They had a premier facility, an embassy, with hundreds of Americans coming in daily—I don't know how you handle a post of that size—but I wouldn't even volunteer for it. It wouldn't be an honor; it would really be a drag, because trying to keep up with national policy while dealing with the visiting firemen and repairmen and all the other problems, the problems that ensue in a wonderful city like Paris. It is really hard work—she was doing an outstanding job. I said to her—the Assistant Secretary, Dick Moose, who used to head up our Foreign Relations Committee, and I have been trying to increase funding for the capital account to modernize telecommunications, to modernize computerization and other equipment in hopes of doing all the good things that the distinguished Senator from Kentucky says that NED does.

Let's assume it is true, and I can tell you, I opposed this in the very beginning and then finally said, ''I'm wasting my breath.'' The one time I actually supported it was when the current Secretary of State, the distinguished Secretary Albright, came to me and said,

> We've got an election in Budapest, Hungary, and we can buy some old printing presses out in Indiana and print up voting bills to be handed out and ballots to help conduct an election.

Now everyone is bothered about foreign governments trying to influence our elections? Heavens above, the other day we had, I think, 99 votes commending Mexico on its elections because it was the first time the United States stayed out.

We have been funding activities through Wall Street or otherwise down there with the PRI. That is a big financial fix. Paying off the Mexican debt was just a refinancing. Nothing went to the Mexican people. It all went back up to the banks on Wall Street. It is time we sober up and understand. My colleagues should get the American Chamber of Commerce report in Mexico City 60 days ago and see what it says: Unemployment is down, the economy is down and the forecast is no recovery for several years to come. NAFTA

hasn't worked. It has worked for the financial crowd, and it has worked for those who want to export the industrial backbone of America.

I reviewed, as a member of the Hoover Commission in the fifties, the Central Intelligence Agency. That was our primary function. I can see Sonny Purfoy in the Guatemala election. I can see him in the Greek election. His job was to run elections the world around.

So the Chinese learned to do a little bit of that, and now we are going to have a big Federal program and spend millions of dollars, all to get on national TV to express our horror and surprise. Mature individuals ought to quit acting like children, and let's move on and let's get the work of the Government done. Now that is what I want to speak about, the work of the Government, namely the State Department.

Assume everything said by the distinguished Senator from Indiana, everything said by the distinguished Senator from Kentucky is absolutely true and ought to be done without apology by the Department of State. What is wrong with that? What is wrong is under communism, we said, ''Well, we couldn't do that.'' We always apologized because of our democracy and our freedom and our individual rights.

The Department of State ought to be around as the foremost lead organization, not the Department of Defense, now with the fall of the wall. We ought to be selling democracy. To Secretary Christopher's credit, he finally got them doing business.

I started back 37 years ago as Governor of South Carolina. I went down in Rio de Janeiro and, like the distinguished Senator from North Carolina, Chairman HELMS, I thought of them in that same vein. Why? Because the United States Ambassador, standing up with the Governor of Guana Bera, in the Embassy in Rio in Brazil, reached over into my glass and pulled the ice out of it and threw it on the floor and said, ''Don't drink that, Governor, the ice is dirty in this country.'' How do you think I felt? I said, ''That fellow doesn't have any manners.'' But a lot has happened in 37 years.

Our Department of State has outstanding personnel the world around, and they are trying to work in the business field to help spread capitalism. In my opinion that is what really prevailed with the fall of the wall. It wasn't the CIA or anything else. It was capitalism. I served on the Intelligence Committee, and they never briefed us that the wall was about to fall.

So be that as it may, let's bring our Department of State in and put in a billion more. They gave a billion more in foreign aid and less to the Department of State. The distinguished chairman, the Senator from New Hampshire, comes around and finds some money here, and we put it in the infrastructure to try to build up the Department of State. We come around and we have a crowd that says, ''No, the Republican Party, the Democratic Party, the AFL–CIO, the chamber of commerce''—now, by gosh, they have their minions all over this Capital City, and so they can fix the vote and tell what wonderful work it does. Well, if it is wonderful work, let's let the Department of State, without embarrassment or apology, perform it.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have on previous occasions come to the floor of the Senate to support amendments offered by the Senator from Arkansas to strike the funding for the National Endowment for Democracy. I must say that I was surprised and very pleased by the actions taken by the Senator from New Hampshire and the Senator from South Carolina and the subcommittee to strike the funding in the subcommittee and recommend to the full Senate there be no funding for the National Endowment for Democracy.

The chairman and the ranking member say it very simply. They simply cut the $30 million out. In their report, they tell us that:

> The National Endowment for Democracy was originally established in 1984 during the days of the cold war as a public-private partnership to promote democratic movements behind the Iron Curtain. Limited U.S. Government funds were viewed as a way to help leverage private contributions and were never envisioned as the sole or major source of continuing funds for the National Endowment for Democracy.

I might say parenthetically, it wasn't really a private-public partnership, it was public funding. There was never very much private money available. But the subcommittee says:

> Since the cold war is over, the committee believes the time has come to eliminate Federal funding for this program.

Once again, I am pleased by this recommendation. I think it is the right recommendation.

We have a weed in North Dakota out in ranching and farming country called the leafy spurge. The leafy spurge is kind of an ugly weed. It grows anywhere, without moisture. You just can't get rid of it. You can cut it, you can spray it, you can mutilate it, you can dig it up, and you come back and it is still growing. We have some things in the Federal budget that remind me a little bit of leafy spurge. It doesn't matter what you do, you just can't kill it.

The chairman and the ranking member bring a proposal to this floor from the committee that says this program is a program that is done, it ought not be funded. I think the Senator from Arkansas, the Senator from New Hampshire, the Senator from South Carolina, and others, have said it well. Most taxpayers, I think, would be surprised to discover that we were spending nearly $30 million and we were dividing it up and saying to groups, ''Take this and go around the world and promote democracy.'' We would give a pretty big chunk to the National Democratic Party. Then we would give an equivalent chunk to the Republican Party, because you can't give to one without the other. Then we would give a big chunk of money to the U.S. Chamber of Commerce, and then give an equivalent amount of money to the AFL–CIO, and we would say, ''With this, promote democracy, promote free enterprise, promote unionism.''

It is 1997. The cold war is over. The Soviet Union doesn't exist. There is no Berlin Wall. There is no Warsaw Pact. Democracy has marched across the continents on this Earth, and yet, today, we face an amendment that says, ''Let us decide to continue to spend $30 million a year for the National Endowment for Democracy.''

I must tell you that I sort of view these things also in the context of what else is necessary to be done. The Senator from New Hampshire talked about trying to make a telephone call from a U.S. embassy on foreign soil to the United States or to use a computer in an American embassy abroad to try and connect to the United States. He talked about the Department's equipment needs, and I understand that. I think most of us have seen that first hand. He is talking about the needs of the State Department.

Those needs are great, and yet the funding to meet those needs is cut under this amendment, in order to pay for this $30 million for the National Endowment for Democracy.

There are other needs that frustrate me from time to time, sufficient so that I sit and grit my teeth and wonder why, why can't you get something so small done that would help people who are so important? But you just can't. And yet $30 million is available for a National Endowment for Democracy.

I think for 4 or 5 years, I have come to this floor to try to get, first, $1 million, then $2 million, to deal with the issue of child abuse on Indian reservations. I have been unsuccessful all these years to get that money.

I held a hearing one day, and at the hearing, we heard the story of Tamara DeMaris, a young Indian girl 3 years old who was put in a foster home, and they didn't have enough time to check out the foster home. So this 3-year-old girl was in this foster home, and a drunken party ensued. The 3-year-old girl was beaten severely, her hair was torn out at the roots, her arm was broken and her nose was broken. Why? Because she was put in a foster home and no one checked to see that the foster home was safe. Why? Because one person had 150 cases of children who needed help and didn't have time to check the foster home.

At a hearing on this issue of child abuse, I had a young woman sit at the table and begin to weep. She was in charge of child welfare. She said, ''I have stacks of folders on the floor alleging physical abuse and sexual abuse that haven't even been investigated because I don't have the money.'' She

began to weep. She said, ''I don't even have the ability to transport kids to a doctor.''

I tried for 4 or 5 years to get money to start a pilot project to deal with those child abuse issues. The money is not available. But $30 million for the National Endowment for Democracy? A big chunk to the AFL–CIO, to the chamber of commerce, to each political party, and then send some contracts around the world, fly around the world to meetings in the biggest cities in the world and talk about democracy?

We are going to come to a portion of appropriations, as the Senator from Arkansas said, where we will spend $4 billion for something called the Agency for International Development. That is a program that promotes democracy abroad. That is a program that helps people around the rest of the world. Four billion dollars, I am told. The U.S. Information Agency is a program that helps people around the world; Food for Peace; the contribution we make to NATO.

I was asking somebody today, if we contributed the same amount of our national income as all of our NATO partners do to the defense of Europe, what would it mean to us? I discovered something interesting: $100 billion a year of savings. If we were contributing the same average amount for defense as all of our allies are contributing, $100 billion a year. Think of that.

So we spend $100 billion extra a year to promote democracy, to help our allies, to help defend the free world, and then we spend money in AID, we spend money in USIA, we spend money in Food for Peace in a dozen other ways, and then we want to duplicate it in a minuscule program that doesn't have a reason for being, except that we fund it and it sets up a very well-connected board. The Senator from New Hampshire said, I guess he called it the club, I think that was the reference.

I don't know much about this club. The names I see are some of the most distinguished Americans, no question about that, people for whom I have great respect. I would expect every single one of them associated with this organization would support the organization. I understand that.

The point is, we spend billions and billions of dollars supporting democracy abroad through this Government's programs—the foreign aid program, the Food for Peace Program, USIA, AID, and dozens of others—and there is not a need when the cold war is over, when there is no Soviet Union, when times have changed, to resurrect a $30 million program that this subcommittee decided it wanted to kill.

It is unusual to see a bill come to the floor of the Senate with a recommendation that says, you know, this program has outlived its usefulness. This program is no longer needed. This money ought to be saved. It is very unusual to see that happen here in Congress. But it happened today when Senator GREGG and Senator HOLLINGS brought a recommendation to the floor saying this organization that produces these slick annual reports is no longer necessary.

That conclusion is contested by some who say, yes, it is. We want $30 million more added to the bill to support the continued existence of this organization, the National Endowment for Democracy.

We live in the greatest democracy on the face of this Earth. Half of the people in the last election said they did not want to go vote. If we want to endow a democracy, let us invest this $30 million here, let us continue an investment in this democracy.

You know, I know some people look at, I suppose, some of the things I talk about on trade and other things I talk about and say, ''Well, it's some of the same old story, kind of isolationist, and don't understand things, can't see over the horizon. You just don't have the vision, the breadth of understanding that it takes to know why this is necessary.''

I think I do understand this.

I am not a foreign policy expert by any means, nor am I an isolationist, nor do I believe the world is growing larger—it is growing smaller—nor do I believe that we do not have to be involved in what is happening in the rest of the world. But this country can no longer afford to spend money it does not have on things it does not need. And it does not need the National Endowment for Democracy, an organization with a fancy title, that gives its money to the AFL–CIO, the chamber of commerce, the two national political parties, and then goes without much strain to promote democracy abroad.

There is plenty of democracy to promote here at home, plenty of reasons to decide either to save this money or to invest it here in things we need to do in this country and use the promotion of democracy as it is effectively done in AID, in USIA, and Food For Peace, and so many other organizations, yes, including, as Senator BUMPERS said, the foreign aid bill. That is where we promote the principles of democracy abroad. It is where it should be promoted.

Finally, let me just say this. This organization was created on a recommendation offered in 1983, created in 1984 in the middle of the cold war, I assume for good purposes at that time, for people who felt it was a necessary organization. It is now no longer necessary.

The subcommittee is dead right. This is a colossal waste of the taxpayers' money. If we cannot kill this organization, and end this funding, then in my judgment we have a very difficult time taking a look at other areas of questionable funding and making the right choice.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I withdraw amendment No. 981.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 981) was withdrawn.

AMENDMENT NO. 984

(Purpose: To make appropriations for grants through the National Endowment for Democracy)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself, Mr. LEAHY, Mr. MCCONNELL, Mr. GRAHAM, Mr. DODD, Mr. ROTH, Mr. LIEBERMAN, and Mr. MACK, proposes an amendment numbered 984.

Mr. MCCAIN. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the last word in the bill and substitute the following:

''1998

''SEC. . NATIONAL ENDOWMENT FOR DEMOCRACY.

''For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended. The language on page 100, line 24 to wit, '$105,000,000' is deemed to be '$75,000,000'.''

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

AMENDMENT NO. 985 TO AMENDMENT NO. 984

(Purpose: To make appropriations for grants through the National Endowment for Democracy)

Mr. MCCONNELL. I send a second-degree amendment to the Lugar amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. LEAHY, Mr. LUGAR, Mr. GRAHAM, Mr. DODD, Mr. ROTH, Mr. LIEBERMAN, and Mr. MACK, proposes amendment numbered 985 to amendment No. 984.

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

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

The amendment is as follows:

Strike all after the word ''1998'' on line 4 of the underlying amendment and substitute the following:

SEC. . NATIONAL ENDOWMENT FOR DEMOCRACY.

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended. The language on page 100, line 24 to wit, ''$105,000,000'' is deemed to be ''$75,000,000''. This shall become effective one day after enactment of this Act.

Mr. MCCONNELL. Mr. President, let me just say very briefly—we are anxious to hear from Senator MCCAIN, and move on to a vote—the capital investment account referred to by the distinguished chairman of the subcommittee and the ranking member will still be $105 million after the Lugar amendment is approved. That would exceed the President's request by $10 million and exceed the 1997 level of last year's bill by $80 million.

The distinguished chairman of the subcommittee certainly raises a valid point with regard to the infrastructure at the State Department. But it will be substantially increased for all the purposes he alluded to even after the amendment restoring the National Endowment for Democracy is hopefully approved.

Just one other point, Mr. President. I just want to mention a letter that was sent to the chairman and the ranking member in support of the National Endowment funding at $30 million signed by, in addition to Senator LUGAR and myself, Senator GRAHAM, Senator MIKULSKI, Senator LAUTENBERG, Senator MACK, Senator SARBANES, Senator COCHRAN, Senator LIEBERMAN, Senator HATCH, Senator Bob KERREY, Senator INHOFE, Senator DODD, Senator ABRAHAM, Senator KENNEDY, Senator MURKOWSKI, Senators LEAHY, ROTH, KERRY of Massachusetts, ROBB, LEVIN, BREAUX, KYL, DEWINE, COVERDELL, JEFFORDS, MOYNIHAN, REED, HAGEL, TORRICELLI, THOMAS, REID, ROCKEFELLER, FRIST, and of course the distinguished Senator from Arizona, who is about to speak who has been an enthusiastic supporter of this program over the years.

The NED, many of us feel, has done wonderful work, has broad bipartisan support across both party and ideological lines.

Mr. President, we hope the amendment offered by the distinguished Senator from Indiana will be approved.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, the Senator from Kentucky and the Senator from Indiana have made I think a strong and compelling case for this amendment. I am grateful for what they have said and their active involvement in the pursuit of democracy throughout the world.

The Senator from Kentucky just recently completed action on an appropriations bill here that I think embodies frankly what the National Endowment for Democracy is all about. And of course the Senator from Indiana, Senator LUGAR, is acknowledged throughout the world, not only in this body, but throughout the world as one of the foremost experts on national security issues and foreign affairs.

Mr. President, I do not want to repeat a lot of the things that have already been said about this issue, except to try to define really what this debate is all about.

The Senator from North Dakota just talked about the fact that there was no use for this kind of activity by our Government. I understand that. I less understand the Senator from New Hampshire who I have always known to be a person who supported efforts for freedom and democracy throughout the world.

We have people, Mr. President, like Martin Lee, who everyone recognizes as the voice of human rights and freedom in Hong Kong. He says:

> In Hong Kong and elsewhere in Asia and around the world, the struggle to preserve democracy, political freedom and the rule of law is far from being won [is far from being won]. But by supporting key human rights organizations which work for the development of democracy and the preservation of the rule of law and human rights in Hong Kong, the Endowment's work in Hong Kong has had a profound effect at a critical time.

I do not know if the Senator from Arkansas, who I have debated this issue for several years with, takes the time or the effort or the trouble to hear from people like Martin Lee and Harry Wu, and people who have suffered—who have suffered—on behalf of fighting for human rights and freedom in their countries.

I wish the Senator from Arkansas would take some time and listen to these individuals, not me, not the Senator from Kentucky, not the Senator from Indiana, but why don't you, I would ask the Senator from Arkansas, listen to people like Martin Lee and Harry Wu, the Dali Lama, the Prime Minister of the National Coalition Government of Burma, the former chief of staff of the President of Chile, the President of Lithuania, the list goes on and on, names that are not known to some in America but are known throughout the world in their struggle for freedom in virtually every part of the world. That is why I am a bit puzzled and confused by the length of this debate and, frankly, the emotion associated with it.

As has already been noted by the Senator from Indiana and the Senator from Kentucky, there is an editorial in the Wall Street Journal this morning. I quote:

> Hong Kong democratic leader Martin Lee, who faces tough battles ahead in coping with Hong Kong's new Beijing landlords, penned a letter to Senator CONNIE MACK begging him—begging him—to help save the NED. Senator BOB GRAHAM has heard from Sergio Aguayo of the Civic Alliance, which has a strong hand in promoting the multiparty democracy now taking root in Mexico.

The list goes on and on.

> One achievement of this Ronald Reagan brainchild was to help Poland's Solidarity break the grip of the Soviet Union in the Cold War days.

It goes on and on.

Mr. President, as I said, I am not going to take a lot of time. I just want to say as strongly as I can, in the end I think it is fair to say that the opponents of the National Endowment for Democracy are those who define this country only by what we are against and not by what we are for. It is enough for them that the United States opposed communism, and once the threat communism posed to our own security was defeated, they viewed America's role as the champion of liberal democracy to have become an expensive vanity which deserved to disappear with the Berlin wall.

But such a cramped view of American purpose ignores the service and sacrifice of hundreds of thousands of Americans who were ordered into innumerable battles, not just in defense of American security, but of American values.

It ignores the aspirations of our Founding Fathers who conceived of this Nation as an inspiration for and friend to all peoples who sought their natural right to life, liberty, and the pursuit of happiness.

It ignores the wisdom of Abraham Lincoln who knew that the outcome of our Civil War would affect the world as profoundly as it affected our own society. And it ignores the generous spirit of Ronald Reagan who believed that supporting the forces of democracy overseas was our abiding moral obligation, just as it was a practical necessity during the cold war.

I am proud of America's long and successful opposition to communism, but being an anticommunist is not enough. It was never an end in itself. We are all small ''d'' democrats in our efforts to help secure the blessings of liberty of what truly distinguishes American history from all other nations on Earth. It was necessary to defeat communism to protect the well-being of Americans, but it was also necessary to defeat communism because it threatened America's best sense of itself and our sublime legacy to the world.

Mr. President, $30 million is a small investment in preserving that legacy. And I ask all my colleagues to keep faith with the many revered Americans who paid a much higher price than that to keep America a beacon light of liberty.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I am delighted I was here to hear the Senator from Arizona comment on the program. I will call attention to the fact that the bill in the other body has the same amount of money that is in the amendment as proposed here. This matter will be at conference. And it will be a long and sustained conference whether this amendment is adopted or not.

I believe that we should keep on course. I am not an opponent of this matter. As a matter of fact, I have always voted for it. But I do not think it gains anything to have a prolonged discussion here at this time. I will assure Senators who support it, we will do everything in our power to assure the conference of their objectives at conference. But I move to table this

amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 984

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment. The yeas and nays are ordered. The clerk will call the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote ''no.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 72, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—27

Allard	Conrad	Hollings
Baucus	D'Amato	Kohl
Bingaman	Dorgan	Lott
Boxer	Faircloth	Nickles
Breaux	Feingold	Shelby
Bumpers	Ford	Stevens
Byrd	Grassley	Thompson
Cleland	Gregg	Warner
Cochran	Helms	Wyden

NAYS—72

Abraham	Gorton	McCain
Akaka	Graham	McConnell
Ashcroft	Gramm	Mikulski
Bennett	Grams	Moseley-Braun
Biden	Hagel	Moynihan
Bond	Harkin	Murkowski
Brownback	Hatch	Murray
Bryan	Hutchinson	Reed
Burns	Hutchison	Reid
Campbell	Inhofe	Robb
Chafee	Inouye	Roberts
Coats	Jeffords	Rockefeller
Collins	Johnson	Roth
Coverdell	Kempthorne	Santorum
Craig	Kerrey	Sarbanes
Daschle	Kerry	Sessions
DeWine	Kyl	Smith (NH)
Dodd	Landrieu	Smith (OR)
Domenici	Lautenberg	Snowe
Durbin	Leahy	Specter
Enzi	Levin	Thomas
Feinstein	Lieberman	Thurmond
Frist	Lugar	Torricelli
Glenn	Mack	Wellstone

NOT VOTING—1

Kennedy

The motion to lay on the table the amendment (No. 984) was rejected.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, there is overwhelming opposition. But I do want to tell the Senate that we are spending time on an amendment that deals with a subject the House has always insisted on in conference. I don't know why we spend time debating here on the floor whether or not we are going to give this subject approval by the Senate, because it is one item that the House will not let us come out of conference on unless we approve it. So we have taken time to get negotiating room with the House, and the Senate won't let us have it. I am sorry to say that I think the Senate just made a mistake.

AMENDMENT NO. 985

The PRESIDING OFFICER. If there is no further debate, the pending business before the body is the second-degree amendment by the Senator from Kentucky.

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 985) was agreed to.

Mrs. FEINSTEIN addressed the Chair.

AMENDMENT NO. 984, AS AMENDED

The PRESIDING OFFICER. The question is now on the first-degree amendment, as amended. Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 984), as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 986

(Purpose: To establish a Commission on Structural Alternatives for the Federal Courts of Appeals)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. LEAHY, Mrs. MURRAY, Mrs. BOXER, Mr. REID, and Mr. BRYAN, proposes an amendment numbered 986.

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

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

The amendment is as follows:

On page 93, line 5, strike all through line 15 on page 97 and insert the following new section:

SEC. 305. COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS.

(a) ESTABLISHMENT AND FUNCTIONS OF COMMISSION.—

(1) ESTABLISHMENT.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the ''Commission'').

(2) FUNCTIONS.—The functions of the Commission shall be to—

(A) study the present division of the United States into the several judicial circuits;

(B) study the structure and alignment of the Federal Court of Appeals system, with particular reference to the Ninth Circuit; and

(C) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeals, consistent with fundamental concepts of fairness and due process.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 10 members appointed as follows:

(A) One member appointed by the President of the United States.

(B) One member appointed by the Chief Justice of the United States.

(C) Two members appointed by the Majority Leader of the Senate.

(D) Two members appointed by the Minority Leader of the Senate.

(E) Two members appointed by the Speaker of the House of Representatives.

(F) Two members appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENT.—The members of the Commission shall be appointed within 60 days after the date of the enactment of this Act.

(3) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(4) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(5) QUORUM.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

(c) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(2) PRIVATE MEMBERS.—Members of the Commission from private life shall receive $200 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(d) PERSONNEL.—

(1) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—The Executive Director, with the approval of the Commission, may appoint and fix the compensation of such additional personnel as the Executive Director determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this paragraph shall not exceed the annual maximum rate of basic pay for a position above GS–15 of the General Schedule under section 5108 of title 5, United States Code.

(3) EXPERTS AND CONSULTANTS.—The Executive Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(4) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, to the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services to the Commission on a reimbursable basis.

(e) INFORMATION.—The Commission is authorized to request from any department, agency, or independent instrumentality of

the Government any information and assistance the Commission determines necessary to carry out its functions under this section. Each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

(f) REPORT.—No later than 18 months following the date on which its sixth member is appointed in accordance with subsection (b)(2), the Commission shall submit its report to the President and the Congress. The Commission shall terminate 90 days after the date of the submission of its report.

(g) CONGRESSIONAL CONSIDERATION.—No later than 60 days after the submission of the report, the Committees on the Judiciary of the House of Representatives and the Senate shall act on the report.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums, not to exceed $900,000, as may be necessary to carry out the purposes of this section. Such sums as are appropriated shall remain available until expended.

Mr. D'AMATO addressed the Chair.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I believe the Senator from New York has a question. I yield to him for a moment.

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

STAMP OUT BREAST CANCER ACT

Mr. D'AMATO. Mr. President, I ask unanimous consent that the pending amendment be laid aside for up to 3 minutes; and I further ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1585, which was just received from the House.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Mr. President, reserving the right to object, as long as the Chair will recognize the Senator from California following the handling of this measure.

The PRESIDING OFFICER. The Senator's request is so modified.

Is there an objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1585) to allow postal patrons to contribute to funding for breast cancer research through the voluntary purchase of certain specially issued United States postage stamps, and for other purposes.

The Senate proceeded to consider the bill.

Mrs. FEINSTEIN. Mr. President, I am proud to support the breast cancer research stamp bill, H.R. 1585, sponsored by Congresswoman SUSAN MOLINARI and approved in the House of Representatives yesterday on a vote of 422 to 3.

I, along with Senators D'AMATO, FAIRCLOTH, and the original 51 cosponsors of my bill, the breast cancer research stamp Act (S. 726), have worked very hard to give life to this innovative breast cancer research stamp idea, which originated with a physician—Dr. Bodai from my State, and I am happy to see it become a reality today.

At a time when the National Cancer Institute can only fund 26 percent of applications, a drop from 60 percent in the 1970's, this legislation creates an innovative way for citizens to contribute to breast cancer research.

Under this bill:

Postal Service would establish a special rate of postage for first-class mail, not to exceed 25 percent of the first-class rate, as an alternative to the regular first-class postage. The additional sum would be contributed to breast cancer research.

The rate would be determined in part, by the Postal Service to cover administrative costs and the remainder by the Governors of the Postal Service.

Seventy percent of the funds raised would fund breast cancer research at NIH and 30 percent of the funds raised would go to breast cancer research at DOD.

The Postal Service would provide the stamp within a year from the date of enactment.

Within 3 months prior to the stamp's 2-year anniversary, the bill requires the Comptroller General to evaluate the effectiveness and the appropriateness of this method of fund raising and report its findings to Congress.

THE BREAST CANCER TOLL

There are 1.8 million women in America today with breast cancer. Another 1 million women do not know they have it; 180,200 new invasive cases will be diagnosed this year.

Breast cancer kills 46,000 women a year. It is the leading cause of death for women ages 35 to 52 and the second leading cause of cancer death in all women, claiming a woman's life every 12 minutes in this country.

For California, 20,230 women were diagnosed with breast cancer and 5,000 women will die from the disease. (Source: American Cancer Society—cancer facts and figures 1996.)

The San Francisco Bay area has one of the highest rates of breast cancer incidence and mortality in the world. According to the Northern California Cancer Center, bay area white women have the highest reported breast cancer rate in the world, 104 per 100,000 population. Bay area African-American women have the fourth highest reported rate in the world at 82 per 100,000.

In addition to the cost of women's lives, the annual cost of treatment of breast cancer in the United States is approximately $10 billion.

The incidence of breast cancer is increasing. In the 1950's, 1 in 20 women developed breast cancer. Today, it is one in eight and growing.

While we know there is a genetic link to some breast cancers, we do not understand the fundamental cause. In hearings I held as cochair of the Senate Cancer Coalition, we learned that environmental factors may lead to as much as 90 percent of breast cancer. We know that breast cancer rates vary between countries and when people migrate, they tend to acquire cancer rates closer to those of newly adopted countries within a generation.

Over the last 25 years, the National Institutes of Health has spent over $31.5 billion on cancer research—$2 billion of that on breast cancer. In the last 6 years alone, appropriations for breast cancer research have risen from $90 million in 1990 to $600 million today.

And the United States is privileged to have some of the most talented scientists and many of the leading cancer research centers in the world such as UCLA, UC San Francisco, Memorial Sloan-Kettering, the Dana Farber Institute, and M.D. Anderson. But researchers need funding. Science needs nourishment. Without it, promising avenues of scientific discovery go unexplored. Questions go unanswered. Cures go undiscovered.

CITIZEN CONTRIBUTIONS

The breast cancer research stamp bill allows anyone who chooses to, to conveniently contribute to Federal research and to finding a cure for the breast cancer epidemic. It is an innovative idea originating with an American citizen and I am very grateful for the support of the House yesterday.

I urge my colleagues to support this important legislation.

Mr. THOMPSON. Mr. President, as chairman of the Governmental Affairs Committee, which has oversight responsibility for the U.S. Postal Service, I want to comment on H.R. 1585. This measure directs the Postal Service to issue a semipostal stamp, at a price of up to 8 additional cents per first-class stamp, to raise funds for breast cancer research. Clearly this measure has the votes to pass; a similar measure passed the Senate last week by a vote of 83 to 17. But I want the record to reflect my strong disagreement with it. I think it is a bad idea for several reasons. It will create a precedent for congressional authorization for the issuance of many other fundraising postal stamps for many other worthy causes. As all Members are aware, the Postal Service has plenty of challenges on which it should concentrate. Not all costs of undertaking this new program are quantifiable, and we will be distracting the Postal Service from its responsibility of providing the best delivery service at the lowest price. Note that it is likely that we will soon see an increase in the cost of mailing a first-class letter. If Congress believes additional funds should be spent for this or another purposes, Congress should appropriate the funds directly. That is our responsibility.

Mr. HOLLINGS. Mr. President, I want to convey my strong support for the Stamp Out Breast Cancer Act, H.R. 1585. I may have created confusion on this point by voting last week against an amendment offered by my friend Senator FEINSTEIN of California when

the Senate was considering the Treasury-Postal Service-general Government appropriations bill. I was concerned about initial reports that the Postal Service would have technical problems raising the projected funds. However, passage of today's legislation both solves those problems and properly authorizes the program. As a supporter of the war on cancer 26 years ago and the author of the pilot program which grew into the Centers for Disease Control's breast and cervical cancer screening program, I am very pleased to see this legislation enacted. The bottom line is that we need public awareness and research funds, and this legislation provides both. Again, I commend my friend Senator FEINSTEIN for her energetic efforts on this front and am pleased to support this bill.

Mr. D'AMATO. Mr. President, I ask unanimous consent the bill be considered read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD at the appropriate place in the RECORD.

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

The bill (H.R. 1585) was passed.

Mr. D'AMATO. Mr. President, I want to thank the Senator from California for yielding. I think it is just gratitude at this time because there is no one who has worked harder than Senator FEINSTEIN in terms of the attempts to bring forward this passage.

This will permit the Postal Service to go forward with a program that will pay for it itself and dedicate 70 percent of the net proceeds to cancer research at NIH and give the other 30 percent to the Department of Defense.

We worked together on this with the House, and I think it is a great testimony to the dedication of bringing people together for a sole purpose.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I also want to thank the Senator from New York for his help on this matter.

We have had a true bipartisan effort with Ms. MOLINARI and Mr. FAZIO in the House and Senators D'AMATO, FAIRCLOTH and FEINSTEIN in the Senate. This bill passed the House on suspension. I believe it is an excellent bill. I think it will get the job done in a way in which we can all be proud.

The bill is slightly different than the bill that we introduced as an amendment on the fiscal year 1998 Treasury-Postal appropriations bill last week. This bill provides for up to 25 percent of the cost of a first-class stamp to be attached, the extra amount added to be used for breast cancer research. Of the amount of funds raised, 75 percent would go to the NIH, and the remainder to DOD.

It is something that is widely supported by virtually every medical and cancer association in the United States.

Let me say one thing. Breast cancer is the No. 1 killer for women between the ages of 35 and 52 in this Nation today. It used to be 1 out of 20 women. Today it is one out of every eight women in the United States will come down with breast cancer. It is extraordinarily serious. This is a unique public/private partnership, the first time it has been tried, a pilot, if you will. I know it has been hotlined. I am grateful for the results. I thank the Senator from New York so very much for his work and support and the pink ribbon he is wearing on his lapel, and I believe the women of America, all of us, also thank every Member of this body.

The PRESIDING OFFICER. The bill has been passed.

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

Mrs. FEINSTEIN. I certainly will.

Mr. BUMPERS. We debated this in the Appropriations Committee, as we know, for a short time. We voted on it the other day—a different proposition. I am not clear on the difference between the amendment the Senator is offering now and the one that was overwhelmingly passed in the Senate the other day. That was carried—a 1-cent increase in the 32-cent stamp, with the extra penny going to breast cancer research. This one, as I understand it—does this amendment take part of the 32 cents or does it also carry an increase in the 32 cents?

Mrs. FEINSTEIN. The amendment we are to be on is a Commerce, State, Justice amendment that I have sent to the desk involving the ninth circuit split. But before we start that, it is my understanding the bill has passed on the breast cancer stamp, and I would be very happy to discuss it.

Mr. BUMPERS. I did not realize the parliamentary situation. Could the Senator just take a minute to explain?

Mrs. FEINSTEIN. I will be very happy to.

One of the problems with the 1-cent stamp is the uncertainty of the post office that the administrative costs will be fully covered by the additional 1 cent. The legislation which passed the House, authored by SUSAN MOLINARI and DICK FAZIO, on suspension, essentially provides that it can be up to 25 percent —that would be about 8 cents, determined by the Board of Governors—so that the full cost of administering it is covered. The Board of Governors within a short period of time will set the actual amount, whether it is 1 cent, 2 cents, 3 cents or 4 cents, and I actually feel is a much better way of doing it. I think it will end up producing more money. I think it will give the post office fewer ulcers. I think it will be carried out forthwith. This has passed the House, and with the passage here today we can get the show underway.

The Board of Governors must, within 1 year of the enactment of the bill, issue the stamp.

Mr. BUMPERS. The Senator mentioned 25 percent. Is that 25 percent of 32 cents or is that 25 percent of something else?

Mrs. FEINSTEIN. It is 25 percent of a first-class stamp which right now is 32 cents.

Mr. BUMPERS. So 25 percent of that goes to the Postal Service to administer this program?

Mrs. FEINSTEIN. No. No. It allows an optional first-class stamp, up to 25 percent of the cost of a first-class stamp. In other words, it could add 8 cents onto it, on an optional basis. There would still be a 32-cent stamp. Then there would be this breast cancer stamp. All right. The Board of Governors in their deliberation would make a decision of administrative cost and then out of the 8 cents or 4 cents or 6 cents or 2 cents, whatever they decide, those administrative costs would come out of that additional amount.

Mr. BUMPERS. I follow you. And the rest of it then would go to the Department of Defense and the National Institutes of Health?

Mrs. FEINSTEIN. That is correct.

Mr. BUMPERS. I thank the Senator.

Mrs. BOXER. Will the Senator yield for a moment?

Mrs. FEINSTEIN. I would be happy to.

Mrs. BOXER. I thank the Senator for her leadership on the breast cancer stamp. I was proud to be one of the cosponsors of the stamp. I know how hard she worked. I know it took many, many hours of work. I was sitting in the Appropriations Committee when the committee chose to await action on the floor. I know that a couple of the senior members of the committee were not that enthusiastic. But I do feel that what the Senator says is right. This bill, this freestanding bill that we have now passed, takes the best of both worlds. I am very excited about it. I congratulate my friend. I can't wait to go to the post office and buy that stamp. If all the American people just think about buying a few of those stamps during the year, we will be able to put so much more into research. It is just a great concept. I thank my colleague for her leadership.

Mrs. FEINSTEIN. I thank the Senator from California for her comments. I thank the Senator for her help, and I think all of us can be very proud if we just await Presidential signature. It is a fine thing.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 986

The PRESIDING OFFICER. The Senate will now proceed to consider the amendment of the Senator from California, which is to be considered under a pending time agreement.

Mrs. FEINSTEIN. I thank the Chair.

Now, if we may turn to something which is of very deep concern. The

amendment that I have sent to the desk is on behalf of the ranking member of the Judiciary Committee, Senator LEAHY; the Senator from Washington, Mrs. MURRAY; my colleague from California, Senator BOXER; and the two Senators from Nevada, Senators REID and BRYAN. The amendment is an amendment to strike and substitute language. The section we would strike from the bill is section 305, which splits the Ninth Circuit Court of Appeals on an appropriations bill.

Mr. President, this legislation which I am presenting serves as a substitute to a nongermane provision of the fiscal year 1998 appropriations bill for Commerce, State, Justice.

Mr. GREGG. Will the Senator from California yield for a question?

Mrs. FEINSTEIN. Yes, I will.

Mr. GREGG. I am sorry to break in. I was wondering if the Senator would agree to reducing the time of this amendment down to 3 hours equally divided?

Mrs. FEINSTEIN. I would be happy to.

Mr. GREGG. I ask unanimous consent that, under the prior order on this amendment, the time be reduced to 3 hours.

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

Mr. GREGG. I thank the Senator from California.

Mrs. FEINSTEIN. Mr. President, this bill, with no hearing, no due diligence, no consultation with the ninth circuit—any of its judges, attorneys, bar associations within the circuit—splits the circuit, and I would like to show you how it splits the circuit. It creates a twelfth circuit which would comprise Washington, Arizona, Alaska, Oregon, Hawaii, Idaho, and Montana. If you look at the map—separate and distinct, alone—separated from the rest, would be the State of Arizona. The proposal would leave in the ninth circuit only two States—the States of California and Nevada—along with the territories of Guam and the Marianas.

Now, what is wrong with that? First of all, the way in which it is done, which I will address in detail. But second, it creates two unequal circuits. The ninth circuit and Nevada would have close to 35 million people and the twelfth circuit would have 16 million people. But look at the proposed distribution of the judges. It would distribute 15 judges to the ninth circuit and 13 judges to the remainder—an unequal, unfair distribution of judges.

Here is what the effect would be. In the ninth circuit, you would have 363 cases per judge. In the new twelfth circuit, each judge would have just 239 cases. So the judges of the ninth circuit would immediately have caseloads 52 percent higher than the judges of the twelfth circuit.

Mr. President, the real point is that there is already a resolution to this issue. It was passed by the Senate last session, and it has already passed the House. The resolution is legislation that calls for a study of all of the circuits, with special emphasis on the ninth circuit.

The substitute amendment that I am offering today to form a study commission passed the House of Representatives unanimously in June. This bill is identical to the House-passed bill. The study commission represents, I believe, the only principled approach to dealing with an issue as important and far-reaching as the structure of the U.S. courts of appeals.

If I may, Mr. President, there has never been a division of a circuit court without careful study and without the support of the judges and the lawyers within the circuit who represent the public they serve. There has never been a division of any circuit in this manner—arbitrary, political, and gerrymandered. As a member of the Senate Judiciary Committee, I am deeply concerned that the legislation to split the ninth circuit has been included in this appropriations bill with no hearing, no study, no due diligence as to its impact. Section 305 of the bill contains language for this split. It is a misuse, in my view, of the appropriations process.

Yesterday, Representative HENRY HYDE, the chairman of the House Judiciary Committee, wrote a strongly worded letter, which was circulated broadly. I would like to quote from it.

I understand that this week the Senate is expected to consider S. 1022, the Commerce-Justice-State-Judiciary appropriations bill. Included in the bill is a major piece of substantive legislation, the ''Ninth Circuit Court of Appeals Reorganization Act of 1997.'' This provision of the bill (section 305) would amend Title 28 of the United States Code by dividing the existing Ninth Circuit into two circuits. As you well know, altering the structure of the federal judicial system is a serious matter. It is something that Congress does rarely, and only after careful consideration.

It is anticipated that an amendment will be offered to replace the circuit division rider with legislation to create a commission—

That is what I am trying to do at this time—

to study the courts of appeals and report recommendations on possible change. This legislation, H.R. 908, has already passed the House unanimously on a voice vote on June 3, 1997. A similar bill, S. 956, was passed unanimously by the Senate in the 104th Congress. This is a far superior way of dealing with the problems of caseload growth in the Ninth Circuit and other courts of appeals. I urge your support for the amendment.

Sincerely, Henry Hyde, Chairman.

So the House is on record supporting a study. The chairman of the Judiciary Committee of the House writes this letter, and yet this split is in the bill. The administration has issued a strong statement to the Senate Appropriations Committee indicating its support for a study commission and its opposition to the inclusion of such far-reaching legislation in an appropriations bill.

Mr. President, I hope the President will veto this bill if it should contain an arbitrary split of the Ninth Circuit Court of Appeals—a split done politically, as a form of gerrymandering.

In a letter dated July 11, Gov. Pete Wilson reiterated his support for the commission study and stated that the present effort to split the circuit involves judicial gerrymandering, apparently designed, and I quote, ''to cordon off some judges in one circuit while keeping others in another because of concerns, whether perceived or real, over particular judges' perspectives or judicial philosophy.''

Less than 2 weeks ago, when Governor Wilson wrote this letter, there was a proposal that would have divided the ninth circuit into three circuits and split California in half. Then there was another proposal that would have left California and Hawaii in a two-State circuit, the first time in history that a Federal judicial circuit would have consisted of fewer than three States.

In a matter of hours, an amendment was made to the bill, and we have the latest proposal which keeps California whole, teams it with Nevada, isolating a geographical neighbor, Arizona, and placing Arizona with Oregon, Washington, Hawaii, Idaho, Alaska, and Montana. Mr. President, I respectfully submit this is not the way to do the people's legal business. This is not the way to restructure the Ninth Circuit Court of Appeals.

Let me offer some history. I authored the first proposal to create a commission on structural alternatives for the Federal courts of appeal in the 104th Congress during a markup session in the Senate Judiciary Committee on December 8, 1985. If that had been passed, the job would have been done by now. The Senate ultimately passed legislation to create a study commission during that Congress on March 20.

As noted above, in the present Congress, a commission bill identical to the one I am offering today unanimously passed the House. So both Houses of Congress have spoken on this issue and both Houses of Congress have said if the Ninth Circuit Court of Appeals should be split, no due diligence, consult the judges, consult the attorneys who practice before it, look at the precedents, see that there is study, thought and consideration to what would be the best split. None of this has been done. In a matter of a week, four separate proposals have been put forward and changed with no opportunity for anyone who practices law in the ninth circuit, the huge ninth circuit, to indicate what the impact of those proposals might be.

The House-passed bill was modeled on a proposal I introduced with Senator REID on January 30, 1997. The House Judiciary Subcommittee Chairman COBLE and Chairman HYDE moved the bill with the support and cosponsorship of Representative BERMAN. The current H.R. 908 represents a compromise that was worked out in the House and endorsed by every House Republican and Democrat.

I should note that the House-passed bill is very similar to a compromise on a study commission that Senator BURNS and I reached together just a few months ago. This all began with Senator BURNS. I understand his concerns. He has legitimate interests, legitimate thoughts, and I appreciate them. The last I had heard was Senator BURNS signed off on the study commission. So you can imagine the surprise when I heard. My goodness, this is on an appropriations bill. And Members of this body have taken it on themselves to arbitrarily just decide, willy-nilly, how the ninth circuit should be split.

The House-passed commission study is fully bipartisan, a 10-member commission. The commission would operate for 18 months, at which time it would make recommendations to Congress for any changes in circuit structure or alignment.

I don't think we should subject something as important as the structure of our courts to political gamesmanship, and that is just what this is. The study called for in H.R. 908 is a responsible method of evaluating the current situation and making recommendations that can provide a sound foundation for Congressional action in the future.

A study is needed to determine whether this or any proposed circuit division would be likely to improve the administration of justice in the region. That is the fundamental question: Would a split improve the administration of justice, and, if so, what should that split be? Even among those who believe that some kind of split should occur, there is no consensus as to where any circuit boundary lines might be redrawn.

During the 105th Congress, proponents of a circuit split put forward these four proposals. One would have split the north from the southernmost States of the circuit. The second would have chopped the existing circuit into three separate circuits and split California in half. The third would have created a narrow stringbean circuit. That was the same proposal that failed to pass the Senate during the 104th Congress.

The current proposal, which represents at least the fourth proposal in the 105th Congress, is a modification of the stringbean circuit. Again, no due diligence, no hearings, no study, no testimony—nothing.

As I noted before, the proposal isolates Arizona. It combines Nevada. It separates coastal States that have common maritime law. And that is why I say it is gerrymandering. I say if it looks like a gerrymander, talks like a gerrymander, it probably is a gerrymander.

Let's talk about the costs inherent in what is happening here today. If this bill passes and should go into law, splitting the circuit will require duplicative offices of clerk of the court, circuit executive, staff attorneys, settlement attorneys and library as well as courtrooms, mail and computer facilities. According to the ninth circuit executive office, neither Phoenix nor Seattle currently have facilities capable of housing a court of appeals headquarters operation.

As part of the review of last year's similar proposal to split the circuit, the GSA estimated that it would cost a minimum of $23 million to construct new facilities for a headquarters in Phoenix, and I would be very surprised if it was as little as $23 million. Based on GSA costs, the ninth circuit executive has estimated that building and renovation costs for creating or upgrading new headquarters in Seattle and Phoenix would amount to at least $56 million. Additional combined outlay of another $6 million in startup costs would be needed to outfit both Phoenix and Seattle.

The CBO last year estimated the cost of duplicative staff positions at $1 million annually. The new proposal calls for two coequal clerks of the court in the twelfth circuit. Assuming each clerk would have the customary deputy clerk and staff attorney, an additional $300,000 in salaries would be added to the total. So the new twelfth circuit would cost an additional $1.3 million annually for duplicate salaries, and minimum of $25 million in Phoenix and an additional amount for Seattle. It is estimated the cost would run in the neighborhood of $60 million.

This wouldn't be so bad if there just hadn't been approved and spent $140 million to rehabilitate and seismically equip the Ninth Circuit Court of Appeals in the city of San Francisco and Pasadena—$140 million has just been spent. I just visited the San Francisco ninth circuit. It compares with the U.S. Capitol. There is a brand-new library already built in, magnificent chambers, one library that is solid redwood, marble that is incredible, lighting fixtures that go back well over 100 years. It is an amazing and beautiful building.

Under the configuration of States proposed for the new twelfth circuit, the circuit executive estimates that upward of 50 percent of the space recently renovated in San Francisco and Pasadena at a cost of $140 million would no longer be needed. The space was specifically designed to meet the business needs of the court of appeals. The executive office estimates, ''It would cost many tens of millions of dollars to modify the space to make it usable by tenants other than the court of appeals.''

Let me talk for a minute about the real risk of an impetuous political and gerrymandered split of the ninth circuit.

Forum shopping: Organizations and entities whose activities cut across State lines, and those who sue them, would be able to forum shop to take advantage of favorable precedents or to avoid those that are unfavorable. And I suspect, frankly speaking, that this is just what is behind this split. Thus, an additional burden would be placed on the U.S. Supreme Court to resolve conflicts that are now handled internally within the circuit.

Here are some examples provided by the ninth circuit of how dividing it could invite forum shopping: water disputes concerning the Colorado River, which affect California, Nevada, and Arizona; commercial disputes between large contractors like Boeing and McDonald—perhaps that is resolved now—or Microsoft and Intel; different legal precedents affecting the shipping industry along the coastline of the continental United States and Hawaii.

Think of the complications created if different commercial and maritime rules governed the Port of Los Angeles and the Port of Tacoma and Hawaii. The ninth circuit includes a vast expanse of coastal area, all subject to the same Federal law on cargo loading, on seaman's wages, on personal injury, and maritime employment. Vessels plying the coast stop frequently at ports in California, Washington, Alaska, Hawaii and the Pacific territories. If the circuit were to be divided, seamen would have an incentive to forum shop among port districts in order to predetermine the most sympathetic court of appeals to hear the case.

In the commercial law area, all of the States in the circuit have considerable economic relations with California because of its large and diverse population. In a recent case, Vizcaino v. Microsoft, the ninth circuit decided to hear a case en banc concerning whether Microsoft contractors were entitled to the same ERISA benefits and stock options as were regular employees. Microsoft is a large corporation with primary offices in Washington but significant business operations in California. If the ninth circuit were split, Microsoft or its employees might choose to bring a lawsuit in either the ninth or twelfth circuit, in hopes of finding a more sympathetic court.

The judges and lawyers of the ninth circuit overwhelmingly oppose what is happening in this bill. Let me repeat that. The lawyers and judges in all of the ninth circuit States overwhelmingly oppose what is happening in this State, Justice, Commerce appropriations bill.

On four occasions, the Federal judges in the ninth circuit and the practicing lawyers in the ninth circuit judicial conference have voted their opposition to splitting the circuit. The official bar organizations of Arizona, California, Hawaii, Idaho, Montana and Nevada, and the National Federal Bar Association, all have taken positions against circuit division. No State bar organization in the circuit has taken a position in favor of circuit division or what is happening in this bill.

Candidly speaking, this is a political decision of Senators of the Appropriations Committee to affect the legal business of 50 million people in the United States with an arbitrary split, gerrymandered, of the Ninth Circuit Court of Appeals. Candidly speaking,

also, the ninth circuit is large. California alone is predicted to be 50 million people by the year 2025.

Whether the circuit should be split or not, I can't say. I strongly believe it is a decision that should not be made, however, either politically or in a cavalier fashion. The decision should not be made without study, without hearing, without comment from those lawyers and judges whose clients are affected by it.

If—and I say if—the circuit is eventually split, it should be the product of diligence, of study, of hearing, of commentary. It should be part of an analysis of how the circuit courts are functioning in the United States. There may well be a better split involving other States. I don't know, and I would hazard a guess that no one in this Chamber knows that either.

But this does mean a careful study of population should be undertaken. It means an even distribution of caseload by judge, not a rammed-through circuit split that has a 52 percent higher caseload for judges in this new ninth circuit than in the twelfth circuit. On its face, it is patently unfair. Anybody who looks at any split that says you split it so that one set of judges has double the number of cases than the other—that doesn't meet a simple test of fairness.

There should be a careful study of precedents, of commercial law, of maritime law, of the other aspects of precedents. California now has the largest consumer market in the United States in Los Angeles; the third largest in the San Francisco Bay area. It is a huge consumer market, and it is going to be bigger with all kinds of intercommunication among these States.

There should be a study of costs. I pointed out the duplication of staff, I pointed out the need for two new courthouses when two already have been refurbished at a cost of $140 million for the taxpayers. All of this is being done without any study, any hearing, any commentary. It is not something of which this great body can be proud.

I notice that the distinguished Senator from Nevada is here, and if I might ask him, I believe he would like 10 minutes? I will be happy to yield to him.

Mr. GREGG. Mr. President, if the Senator from California wouldn't mind, I would like to go from side to side.

Mrs. FEINSTEIN. I will be happy to do that.

Mr. GREGG. I yield to the Senator from Washington 20 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, there can be no serious argument posed to Members in body that it is not appropriate, maybe beyond appropriate, for all practical purposes necessary, for the proper administration of justice that the U.S. Court of Appeals—almost twice as large as the next largest court of appeals and almost three times as large in population and in caseload as the average circuit—should not be divided.

Twenty-three years ago, a commission, the Hruska Commission, said the Ninth Circuit Court of Appeals was too large and should be divided; that no circuit court of appeals should have more than 15 judges. The reasons, of course, is collegiality, the prompt and effective administration of justice. Any other argument is simply a matter of delay, simply a matter of a maintenance of the status quo.

The Ninth Circuit Court of Appeals should be divided. There have been bills on this subject and hearings on this subject in most of the Congresses from 1975, 22 years ago, to date. The very proposal that is before us right now, with minor changes, was recommended by the Judiciary Committee in the last Congress and did not come to a vote because it was clear that it would be filibustered as an independent vote. That is at least one of the reasons that when he comes to the floor, the chairman of the Judiciary Committee will recommend the rejection of this amendment and supports the division that is included in this bill.

But, Mr. President, before I get back to the merits of the proposal, I want to express my deep concern over some portions of the opposition that come to this bill from California and perhaps elsewhere. One of the reasons that the Senator from California can describe this bill as a gerrymander, one of the reasons that she can call for delay is because the proponents of the division have acceded to the requests of the Senators from the various States that are affected by this division.

Should we have another study commission? That study commission, if it is remotely objective, will recommend the division of the ninth circuit not into two, but into three new circuits, a proposition that this Senator feels to be highly appropriate. The only way to create three new circuits out of the present ninth circuit is to divide the State of California and to place it into two circuits: one centered in San Francisco, the other centered in Los Angeles.

That recommendation has been with us for many years. That recommendation was incorporated into the first version of this bill. The two Senators from California are vehemently opposed to that recommendation, and I strongly suspect that if we go 2 years and have another study commission and it comes up with dividing California, they will find a reason to object to it again and to filibuster the proposal.

So what did the sponsors of the division do? The sponsors of the division said, ''Fine, we will accede to the wishes of the Senators from California. We will make this a two-new-circuit bill.'' California will be left united.

The Senators from Nevada, with some real justice with respect to the bill reported by the Judiciary Committee 2 years ago, stated that they didn't like the division; that Nevada felt more drawn to California than it did to the Pacific Northwest and Arizona. And so in this bill, we have acceded to the wishes of the Senators from Nevada and have left that State in the ninth circuit with the State of California.

That is the reason that the circuit, as it appears in the bill, is not contiguous. But in the days of the Internet, of e-mail, of faxes, of air transportation, there is nothing but history to require that circuits be made up of contiguous States. And, of course, Alaska and Hawaii have never been contiguous to the States in the ninth circuit. Nor has Puerto Rico and the Virgin Islands to the circuits to which they are attached.

Finally, the State of Hawaii, through its Senators, when it was determined there was to be a bill, elected, to my delight, Mr. President, that it would rather be in the smaller, the more intimate, the more collegial circuit, the new twelfth, and that appears in the bill. Then when we asked the representatives of Guam and the trust territories of the Pacific, they said, while they really don't want to change that, of course, they prefer to stay with Hawaii.

If the great majority of the Senators from the Northwest and from Arizona wish a new circuit that is so logical, and if they have deferred to the wishes of the Senators from Colorado and Nevada as to their desires, why should we say no on the floor of the Senate to those who wish the division? What business is it of the Governor of California to tell us how the ninth circuit should be constituted? I am deeply troubled that Senators whose own wishes, reflecting what they think is best for their States, have been respected, refuse so arbitrarily as they and their predecessors have for more than two decades to accede to ours.

Mr. President, there are 28 positions authorized for the Ninth Circuit Court of Appeals. There are 10 more requested by those judges and approved by the Judicial Council. That is a collegial circuit? At the number 28, three-judge panels that are chosen by lot have 3,276 possible combinations of those three judges. You, Mr. President, one of the youngest of our Members, could be appointed to the ninth circuit, could serve on it for 30 years, and the chances are you would never serve on the same panel of three twice in that entire period of time. That is collegiality?

The ninth circuit is slow from the time appeals are filed until they are decided. It is notoriously reversed more frequently than in the case of any other circuit. When I was attorney general of the State of Washington, we figured that if we could get the Supreme Court of the United States to take certiorari from the ninth circuit, we had at least a 75-percent chance of winning in the U.S. Supreme Court, of causing it to repeal the circuit.

At one level, that is not a totally relevant argument, because the two new

circuits would start with exactly the same judges they have now, and I can't note any difference in philosophy from those who come from the States in the old ninth circuit under this proposal and the new twelfth circuit, and, of course, they are nominated by the same Presidents and confirmed by the same Members of the U.S. Senate. But I suspect that if the judges who work together knew one another a little bit better than they do now, there would at least be a marginal improvement in the number of times during which they are reversed.

Mr. President, there is simply no justification whatsoever for the maintenance of this huge and unwieldy circuit. The Senator from California said in 20 years, California itself will have 50 million people. We have a wonderful First Circuit Court of Appeals, much smaller than the twelfth we propose in this legislation. New York and Pennsylvania, that don't have the population of California combined, have always been in separate circuits, and they are both on the Atlantic Ocean, and they both have to deal with the same kind of admiralty law.

No, Mr. President. The time has come. There have been hearings galore. Those hearings have occupied a quarter of a century. There have been bills reported. Another study, another delay, only to be followed by another attempt to delay after that when a three-circuit division is proposed.

No, Mr. President. The time is now. The division is appropriate. It will not be the last in the history of the U.S. courts. But it seems to me we should go ahead. From a personal point of view, I am somewhat unhappy that while we have done all we can to accommodate California, California refuses to accommodate us.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. How much time is remaining on our side, Mr. President?

The PRESIDING OFFICER. Fifty-eight minutes.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I yield 10 minutes of the time to the ranking member of the Judiciary Committee, Senator LEAHY.

Mr. LEAHY. Mr. President, I have been on the Appropriations Committee for 20-some odd years, on the Judiciary Committee about the same amount of time, and I understand that periodically, out of necessity, we have some items of legislation on the appropriations. But this is about as amazing a step as we could take to determine the fate of the ninth circuit on an appropriations bill.

It is not the way to do it. We say we are going to split the Nation's largest court of appeals on this appropriations bill. We have had no hearings, no testimony, no public deliberations on the proposed split before us.

Well, the 45 million people that live in these nine Western States deserve a more considered approach. What we ought to do is have the Senate Judiciary Committee hold hearings, conduct an independent study to determine whether this or any other proposed circuit division is necessary, find out what is the best way to do it, and not just do it basically based on one vote with very little debate in a committee, then on the floor in an appropriations bill.

Last year, the Senate unanimously passed a bill to create a bipartisan commission to study if and how the ninth circuit should be restructured. And that is what the House has done this year. The amendment of the distinguished Senator from California [Mrs. FEINSTEIN], is the same language as H.R. 908, the House-passed bill.

What the Senator from California has done is a principled approach. It is also the approach supported by the majority of the judges and lawyers in the areas served.

Are there problems in the ninth circuit? Of course there are. Let me point out to you, it is a problem not caused by the circuit, but by the U.S. Senate; 9 of the 28 judgeships in the ninth circuit are vacant. There are nominees up here before the Senate.

As a result, the national average is 315 days to get a decision, but for the ninth circuit, it is 429 days. We have people in the ninth circuit who pay taxes like everybody else but who have to wait an extra 114 days. In fact, the ninth circuit canceled 600 hearings this year because we cannot get judges confirmed to sit there.

And what does that mean? It means that a multimillion-dollar settlement of a nationwide consumer class action against a maker of alleged defective minivans is not heard; a $71.7 million antitrust case involving the monopolizing of photocopy markets is not there; an arsenic and lead poisoning class action case with a $68 million settlement agreement is not being heard.

What is happening, Mr. President, is that we go on and try to do little quick fixes because somebody wants to at the moment on an appropriations bill.

What we ought to do, if we want to really do something to help justice in this country, is for the leadership of the Senate, that is, those who schedule debate, in this case, the majority leader, to take some of these judges and allow us to confirm them.

The distinguished senior Senator from Utah, the chairman of the Senate Judiciary Committee, is on the floor. He has been working hard to get judges heard. But no matter how many we hear in the Judiciary Committee, unless they are confirmed on the floor of the Senate, it does not do any good.

At this point, incidentally, we have confirmed—and we are down to the seventh month of this session—we have confirmed six judges. We are about to take another vacation. No more judges will be confirmed. That is less than one a month.

There are over 100 vacancies. We have about 40 or so nominees up here waiting to be confirmed. We cannot even get them confirmed. Here is one, William Fletcher, nominated in 1995; still waiting. Richard Paez, the first month of 1996; still waiting. Margaret McKeown, March 1996; still waiting. This goes on and on and on.

Here is what we have in vacancies—102 vacancies. This Senate has confirmed six.

We all give speeches of needing judicial reform and needing law and order. You have a whole lot of courts where, because the U.S. Senate, because the leadership of the U.S. Senate will not let us confirm judges, we have courts where prosecutors have to kick cases out, that they have to plea bargain and everything else because there are not enough judges to hear them.

Now, when you have proponents of the split of the ninth circuit say it is because justice is being denied, the reason justice is being denied is not geography; the real reason justice is being denied is because judges are being delayed.

These are four well-qualified in the ninth circuit, four well-qualified people. In fact, they have the highest ratings there are. One nominee has actually been favorably reported by the Judiciary Committee, but no—no—action here.

What is happening, Mr. President, is not something that is going to get fixed by the Judiciary Committee, but is going to get fixed if the U.S. Senate does the duty it is supposed to. If we have judges here people do not like, vote them down. We held up the Deputy Attorney General of the United States, Eric Holder, week after week. ''Oh, we've got Senators, we cannot tell you their names, of course, but we have Senators who have real problems, real problems with this man. We can't bring him to a vote. We've got real problems.''

We brought it to a vote. I asked for a rollcall vote. I thought, well, at least let all those Senators, unnamed Senators, who had an excuse for holding the No. 2 law enforcement officer of this country—I said, now we will know who they are, because, obviously, they have problems that they would hold up this man all these months, so they will vote against him. And the clerk called the roll.

And do you know what it was? You know how many voted against him? You say, maybe 30? Probably 20, 10, I ask my good friend, the ranking member? You know how many it was?

Mr. HOLLINGS. How many?

Mr. LEAHY. Zero. I cannot quite say it—I cannot quite say it like my good friend from South Carolina. He is the only person I know who can get five syllables in the word ''zero,'' but zero. It was 100 to nothing; 100 to nothing.

But what we have is, while the Judicial Conference, Chief Justice Rehnquist was asking for more justices, we have 27 vacancies in the court of appeals. We have all kinds of problems. And the ninth circuit is not

going to be helped by politicizing it on an appropriations bill.

The ninth circuit can at least be helped by doing what the Senator from California said, have a nonpartisan professional panel look, make a recommendation, go to the Senate Judiciary Committee, vote it up or down, which is exactly what we should be doing on these judges. If we do not want them, vote them down.

But what we have is always some mysterious person who has a problem. But when we have to vote in the light of day, there is no mysterious person at all because they vote for them. So, Mr. President, I know there are others who wish to speak.

Mr. President, I ask unanimous consent that a letter be printed in the RECORD addressed to Majority Leader LOTT from all the leaders of seven national legal groups, asking him to finally move these judges that are being held hostage.

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

AMERICAN BAR ASSOCIATION,
July 14, 1997.

Hon. WILLIAM J. CLINTON,
The President, The White House,
Washington, DC.
Hon. TRENT LOTT,
The Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT AND MR. MAJORITY LEADER: Among the constitutional responsibilities entrusted to the President and the Senate, none is more essential to the foundation upon which our democracy rests than the appointment of justices and judges to serve at all levels of the federal bench. Notwithstanding the intensely political nature of the process, historically this critical duty has been carried out with bipartisan cooperation to ensure a highly qualified and effective federal judiciary.

There is a looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions and the resulting problems that are associated with delayed judicial appointments. There are 102 pending judicial vacancies, or 11% of the number of authorized judicial positions. A record 24 of these Article III positions have been vacant for more than 18 months. Those courts hardest hit are among the nation's busiest; for example, the Ninth Circuit Court of Appeals has 9 of its 28 positions vacant. At the district court level, six states have unusually high vacancy rates: 10 in California, 8 in Pennsylvania, 6 in New York, 5 in Illinois, and 4 each in Texas and Louisiana.

The injustice of this situation for all of society cannot be overstated. Dangerously crowded dockets, suspended civil case dockets, burgeoning criminal caseloads, overburdened judges, and chronically undermanned courts undermine our democracy and respect for the supremacy of law.

We, the undersigned representatives of national legal organizations, call upon the President and the Senate to devote the time and resources necessary to expedite the selection and confirmation process for federal judicial nominees. We respectfully urge all participants in the process to move quickly to resolve the issues that have resulted in these numerous and longstanding vacancies in order to preserve the integrity of our justice system.

N. Lee Cooper, President, American Bar Association; U. Lawrence Boze, President, National Bar Association; Hugo Chavaino, President, Hispanic National Bar Association; Paul Chan, President, National Asian Pacific American Bar Association; Howard Twiggs, President, Association of Trial Lawyers of America; Sally Lee Foley, President, National Association of Women Lawyers; Juliet Gee, President, National Conference of Women's Bar Association.

Mr. LEAHY. Mr. President, let us also not add to the partisanship we have had with stopping judges from being confirmed by now showing even more of a capricious nature on the part of the U.S. Senate by splitting the ninth circuit with no hearings, no debate, no thoughtful consideration.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I just mention briefly there have been considerable hearings on this issue, testimony before our committee on this issue, and the matter has been around and been discussed at length in a variety of forums.

Mr. President, how much time do we have?

The PRESIDING OFFICER. Seventy-seven minutes and eighteen seconds.

Mr. GREGG. And the Senator from California has?

The PRESIDING OFFICER. Forty-nine minutes.

Mr. GREGG. We have 77 minutes?

The PRESIDING OFFICER. Yes.

Mr. GREGG. I yield, in sequence, 5 minutes to the Senator from Utah and 20 minutes to the Senator from Montana, if that is acceptable.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise today to speak in support of the appropriations provision effecting a split of the Ninth U.S. Circuit Court of Appeals, and to respectively oppose the amendment offered by my colleague from California. Splitting the ninth circuit is appropriate at this time for three principal reasons: First, its size. The ninth circuit is the largest of the 13 federal circuits. Indeed, the ninth circuit is larger than the 1st, 2d, 3d, 4th, 5th, 6th, 7th and 11th circuits combined. The population of the States comprising the ninth circuit is 49,358,941, almost one-fifth of the Nation's population. The size of the circuit also has an effect on the caseloads of the judges of the circuit. The ninth circuit's caseload in recent years has been in excess of 7,000 cases a year, far and away more than in any other circuit.

The second reason to support this proposal is a function of the first. The ninth circuit's size also negatively impacts the internal consistency of law within the circuit. There are currently 28 seats on the ninth circuit, and many who are claiming that Congress should significantly add to that number at least 10 more seats—so, 38 seats. A circuit comprised of so many judges is entirely unmanageable and undermines important considerations of judicial economy, efficiency and collegiality. Because the circuit is so large its judges cannot sit together to hear cases en banc as do other circuits, and accordingly the court has lost the necessary sense of judicial collegiality, and coherence of its circuit-wide case law. I would venture that there are as many contradictory rules of law within the ninth circuit as there are within all the other circuits combined. This has, I believe, contributed to a trend by which some ninth circuit judges feel totally free to disregard precedent, be it circuit precedent or even the Supreme Court's rulings. Just this past term, the ninth circuit had an astounding reversal rate of 95 percent before the Supreme Court. Twenty-eight of 29 cases were reversed. And the usual rate is no less than 75 percent of their cases are reversed. One ninth circuit judge has expressed chagrin at this regrettable situation, explaining that ''the circuit is too large and has too many cases—making it impossible to keep abreast of ninth circuit decisions.''

The third cost of having such a large circuit is the resulting delay in having cases decided. The ninth circuit is, in fact, one of the slowest in turning around case decisions from the time of filing. And, because of its size, some cases, especially high-profile ones, appear to be subject to manipulation.

These important considerations have persuaded me that the ninth circuit should be split. And, I am happy to report that I believe some of my colleagues on the other side of the aisle, from States within the ninth circuit, will vote against the present amendment, and support the split provided for in the present bill.

And finally, I would like to say a word about the way in which this proposed split has come to the floor. Some argue that a significant development like splitting a judicial circuit should not arise in the context of an appropriations bill—that the committee of jurisdiction, in this case the Judiciary Committee, should have the opportunity to review and comment about this proposal. I could not agree more with the proposition that this is a serious matter, deserving serious consideration. I point out, however, that the Judiciary Committee has indeed examined the advisability of splitting the ninth circuit. In just the last Congress, the Judiciary Committee held hearings on the subject, hearing from judges of the circuit and others knowledgeable about the implications of a split. After that hearing, the committee reported out a bill that, in many regards, is similar to the one before the Senate today.

Accordingly, I am confident that the Senate has before it today a well-considered and desperately needed proposal to divide the ninth circuit. This is a proposal that serves the interests of judicial efficiency, stable case law,

and equal justice for Americans within the ninth circuit.

With all due respect, therefore, I must take exception to the proposed commission my colleague from California is now offering by way of an amendment. I think the time for a split of the ninth circuit is now. I believe we have studied the matter thoroughly, and that there is no need for further hearings or a commission.

Frankly, I would expect that, were we in fact to proceed with another commission, it would simply make a recommendation similar to the Hruska report of nearly 25 years ago—namely, to divide the State of California. I don't have any doubt in my mind that that is what a future commission will decide, because if you want to get population equality, you are going to have to divide California. This does not do that, in deference to the Governor of California and, I might add, the two Senators from California, and to the various Congresspeople from California. And I might add, should this amendment succeed—the amendment of the distinguished Senator from California—and a commission be created that ultimately recommends splitting California, I may well be compelled, as will others in this body, to support that split and finally put this matter to rest. So this is dangerous stuff to be playing around with because I believe that there will be a split of California if you go the commission route.

Now, while I recognize that many are greatly concerned about the prospect of dividing the State of California, I have to tell everybody today that this is pretty certain to result if this amendment is enacted.

I urge my colleagues to vote against the amendment offered by my colleague from California. I believe, in the best interests of all concerned, this is an adequate and reasonable response. And, frankly, we have given States within the total area to be divided their right to choose which circuit they will belong to. I think that is an appropriate, reasonable, decent way to proceed. Otherwise, we are just delaying this another 2, 3 years, and we will come up with another split of California, which will be vigorously fought against by Members of the California delegation in both the House and Senate, and we will wind up right back where we are, or California will be split. If it is split, I think it would be to the disadvantage of California, as I view it.

I hope our colleagues will vote down this amendment, as well-intentioned as it is, and will vote for this split, because it would be a split that would, I think, bring about collegiality, and it will bring about a better functioning two circuits, and it will give the States who want the split a chance to have their own circuit, where they can work together in the best interests of their States.

If California continues to be the most reversible set of judges in the Nation, then they will have to live with that. Then everybody will know exactly who are the people that are doing this, who are the judicial activists, the ones undermining the judicial system, and are really causing California the pain, struggles, and difficulties that come from an out-of-control, judicially activist Ninth Circuit Court of Appeals.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I do not see the Senator from Nevada at the moment. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 48 minutes 40 seconds.

Mrs. FEINSTEIN. I yield 5 minutes to the Senator from Washington [Mrs. MURRAY].

The PRESIDING OFFICER. The Senator from Washington [Mrs. MURRAY] is recognized.

Mrs. MURRAY. Mr. President, I rise in strong support of the Feinstein amendment. We simply should not—must not—divide the Ninth Circuit Court of Appeals on an appropriations bill. It is an irresponsible way to proceed with such a fundamentally important question about how we best administer justice in the West.

I want to remind my colleagues that this body, the Senate, in the 104th Congress twice approved a study commission bill. In June, the House of Representatives sent us a bill, H.R. 908, establishing a similar commission. That bill is waiting at the desk for our action. House Judiciary Chairman HENRY HYDE has voiced his dismay at this end run around his authorizing committee. Tuesday he wrote to Chairman HATCH, saying: ''As you well know, altering the structure of the Federal judicial system is a serious matter. It is something that Congress does rarely, and only after careful consideration.''

Mr. President, I am not necessarily opposed to a split of the ninth circuit, but I am adamantly opposed to an appropriation's rider mandating such a gerrymandered split. As Chairman HYDE suggested, we need judicial experts thoroughly analyzing the courts and advising us on what makes sense from a national perspective.

With so many of those who work directly in the ninth circuit opposed to this split, it seems clear we need guidance before we act. The White House opposes this split, the majority of judges on the ninth circuit oppose this split, and the majority of bar associations of the affected States oppose this split. Simply put, this is not the right way to proceed.

We need answers to some important questions first. How much will this cost? Should we create a virtual one-state court? Should Arizona become a part of the tenth circuit? Where should we place a new circuit's courthouse? How many judges should serve in each circuit and from which States should they come? Should we break the ninth circuit into three circuits? How will our Pacific maritime law be affected? Before I participate in breaking up an institution that is more than 100 years old, I want those—and many more questions—answered.

Mr. President, I also have another concern. I find it interesting that supporters of this rider so often refer to the pace at which the ninth circuit does its business. Yet, these same Senators have done little or nothing to fill the many vacancies plaguing the ninth circuit. An outstanding member of the Washington State legal community, Margaret McKeown, has been languishing for nearly 2 years in this body. She has yet to receive a hearing. This is unconscionable and this has real impact on the administration of justice. To make the ninth circuit—or any circuit—work, we must have judges. Let's get the confirmation process moving, and that will stop the glacial pace that people are concerned about.

Finally, I want to remind my colleagues that we have passed almost every fiscal year 1998 appropriations bill without contentious riders. We should have learned from the disaster relief bill what can happen when these riders dominate the process. I believe we should maintain the bipartisan approach we've used so far and avoid letting this important bill get bogged down with riders.

Let's do our appropriations job right and let's do the very serious job of reconfiguring the judiciary right. I urge my colleagues to support the Feinstein amendment establishing a commission to guide the Congress on how best to resolve any real or perceived difficulties in the administration of justice in the ninth circuit.

I yield my time back to the Senator from California.

Mr. BURNS. Mr. President, I rise to oppose the amendment that would strike the provision from the Commerce, State, Justice appropriations bill to divide the Ninth Circuit Court of Appeals. We have heard so much said today about how the bar associations oppose it, the judges oppose it, and nobody has said anything about the people. Are they secondary in our justice system? We are supposed to be serving the people, and I think the bar associations do, too. I happen to believe that they believe very strongly in the kind of service that they deliver to their clientele. But we haven't heard that today.

If there were a judicial equivalent of baseball's famous ''Mendoza line,'' marking the mediocre batting average of .200 below which players dread dropping, then the Ninth U.S. Circuit Court of Appeals would be laboring in the farm leagues.

In terms of the rate at which its decisions are reversed by the U.S. Supreme Court, the ninth circuit's record for failure is practically unblemished. In recent years, on average, more than 80 percent of rulings by the ninth have

been overturned. This past term, the Supreme Court reviewed 29 cases from the ninth circuit—it reversed, in part or in whole, an astonishing 28 of them.

The ninth circuit in 1996–97 alone was reversed, often 9 to 0, on decisions asserting the right to die, requiring sheriffs to conduct federally required but unfunded background checks on people who buy guns, and denying the right of groups who were economically harmed by the Endangered Species Act to sue even though the law gives legal standing to any person.

While the high court undoubtedly chooses many cases with the express intent of reversing them, the ninth circuit this past year has wrecked the curve. For instance, the eighth circuit, which had the second-most cases reviewed, had a reversal-and-affirmance record of only 4 to 4.

But ''this isn't baseball,'' says Judge Stephen S. Trott of Boise, ID, according to a recent Los Angeles Times article.

Agreed. The jurisprudence of our Federal appellate court system is far more serious than a game. In my view, the fact that the ninth circuit is undeniably out of step with the rest of the Nation is perhaps the least of the multitude of reasons to consider splitting this giant court.

First, the ninth circuit outstrips the other circuits in all measures of size, both physically and legally. The ninth circuit encompasses a land mass the size of Western Europe. Its nine States and two territories—Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, Guam, and the Northern Mariana Islands—stretch from the Arctic Circle south to the United States-Mexico border and west across the international dateline. It has a population of nearly 50 million people, about 1 in 5 Americans, and is expected to grow by 43 percent over just the next 13 years.

Second, the ninth's caseload is the largest. More than 8,500 appeals were filed last year, and that number is expected to jump by nearly 700 percent in the next 25 years, making the ninth less than a model of fair and speedy justice. In fact, of the 11 regional circuits and the District of Columbia circuit, it ranks next-to-worst in the duration of pending appeals—an average of 429 days, usually more for criminal cases, compared to the national average of 315 days.

These delays are costly. Appeals take time and money, and they're putting the squeeze on my State. Litigants and attorneys who must make frequent and expensive trips to San Francisco are pleading for reform.

Third, the problems of geography and population are two factors that contribute to judicial inconsistency on the ninth. Because the 28 judgeships of the ninth—nearly twice the maximum number recommended by the U.S. Judicial Conference—are scattered so far and wide, the court has experimented with limited en banc proceedings in which a panel of 11 judges decides the most important cases. By relaying on this approach, conflicting court decisions are common. The right hand doesn't know what the left hand is doing. As a result, decisions by the ninth are often narrow and set few precedents for use by judges in other cases.

In fact, several of the Supreme Court Justices criticized the Ninth Circuit's en banc decision in Washington versus Glucksberg that the due process clause of the 14th amendment guarantees critically ill individuals a limited right to assisted suicide. Even some liberal members of the Court, such as Justice Ginsburg, expressed concern that the Ninth Circuit opinion seemed to give Federal courts a ''dangerous power.''

Size was a factor leading a congressional commission in 1973 to urge splitting the fifth and ninth circuits. Congress chose to split the fifth, while the ninth has become bogged down in political squabbles and has had to make due with its enormous size.

One cannot make the argument this has not been heard, or that it has not been studied when in actuality it has.

Some press accounts have portrayed the debate as a clash of party ideologies, of conservatives who favor the split versus liberals who do not. But such a view is short-sighted. These press accounts overlook the bipartisan support behind dividing the ninth. For many of us, it is just as simple as wanting a court that is closer in every sense to the people it serves.

Supreme Court Justice Anthony Kennedy has publicly noted the merit of division. The U.S. Department of Justice has recently said ''the sheer size of the Ninth Circuit, even without its attendant management difficulties, argues for its division.'' Montana Governor Marc Racicot, a former State attorney general, favors the idea. And I would now like to submit a letter from Governor Racicot supporting this split.

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 GOVERNOR,
STATE OF MONTANA,
Helena, MT, July 22, 1997.

Senator CONRAD BURNS,
U.S. Senate, Washington DC.

DEAR SENATOR BURNS: I would like to submit this letter in support of an amendment to the appropriations bill for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998. The amendment would divide the Ninth Circuit Court of Appeals and create a Twelfth Circuit Court of Appeals made up of the states of Alaska, Arizona, Hawaii, Idaho, Montana, Oregon, and Washington. As you know, I have been supportive of this effort for a long time and I continue to support the proposal for the reasons stated below.

The Ninth Circuit, of which Montana is currently a part, is simply too large to effectively respond to the needs of those it serves. That Court has 28 judges making decisions for 9 states and 2 territories, with a population of between 40 and 50 million people in an area that encompasses about fourteen million square miles. The next largest circuit has a population of under 30 million. California cases alone represent over half of the Ninth Circuit's caseload and the number of judges exceeds by twelve the next largest appellate court, the Fifth Circuit, and is sixteen more than the average appellate bench. I cannot imagine anyone making a compelling argument that a judicial unit of government this size can be administratively efficient.

As you know, our system of jurisprudence relies upon the principle of ''stare decisis'' or precedent. With a circuit and court so large, most cases must be heard by smaller panels of judges, with increased reliance upon staff and summary procedures. With 28 judges, there are over 3,276 combinations of panels that may decide cases that involve similar issues. This leads to conflicting and unpublished opinions, reduced communications among judges and little consistency in the court's determinations. The lack of consistency in a court's decisions, in turn, makes our system of justice unpredictable and unreliable. As a result, the body of established precedent in the circuit can be rendered meaningless. There is, in essence, a diminution of precedent, which undermines the stability and predictability of the law, and actually leads to increased litigation.

I have questioned whether the operational costs of such a large system are comparatively higher. Travel expenses and efficiency of judges and staff should be examined to determine if significant efficiencies could be produced in a smaller circuit. It is not true that a new circuit would result in attorneys traveling to the same cities for argument as before. Montana attorneys often are ordered to San Francisco for argument.

The size of the Ninth Circuit also seems to bear upon the length of time it takes to make decisions. The median time to dispose of a case—from the time of filing a notice of appeal to the final decision on the merits—is 14.6 months. Arguments will be made that much of this time is consumed by counsel rather than the Court; however, I can recall as Montana's Attorney General waiting a long time for the Court to decide cases for which the record had been submitted months or years before.

Habeas corpus matters have taken up to 14 years in one Montana case. It appears that the legitimate interest of the public in reaching final resolution in these cases is not given equal and appropriate consideration when balancing the rights of petitioners. The resulting delays invite the kinds of ''recreational'' use of the court system by inmates that we have seen in recent years.

Opponents of splitting the Ninth Circuit argue that the larger the circuit the more consistency in federal law and mention that judges and attorneys have testified to a sense of community which they enjoy with the existing appellate courts. As I noted in the beginning of my letter, the size of the Ninth Circuit bench has led to decision-making by panel, the differing combinations of which leads inescapably to a lack of consistency in precedential authority. And to argue that judges and attorneys are comfortable with the status quo is a position that, with all due respect, I would imagine falls deaf on the ears of those who have been awaiting a decision from the Court for many months or years.

I do not take the position that Montanans can only find justice before a bench made up of Montana judges or judges from neighboring states. And I am not moved to my position by the political arguments of interest groups whose position on S. 956 is based upon

whether they wish their particular body of substantive law to change or remain the same. However, I do not believe that the original intent of the appellate court system, which was to establish circuits which reflected a regional identity by designating a manageable set of contiguous states that shared a common background, is consistent with a circuit that serves twenty million more people than most of the other circuits and covers fourteen million square miles.

Suggestions to divide the Ninth Circuit Court of Appeals have apparently been proposed since before World War II. The Hruska Commission (Commission on Revision of the Federal Court Appellate System) in 1973 recommended dividing the Fifth and the Ninth Circuits (the Fifth was subsequently divided, but not the Ninth). Opponents of dividing circuits recommend a variety of alternatives: consolidation of all circuits into one large national court, dividing California into two different circuits, and finally the familiar solution of studying the problem further. I hope Congress does not delay further correcting a situation that penalizes those states in the Ninth Circuit for the incredible population growth that has occurred in California and is occurring in Nevada.

I strongly support the proposed amendment, because I think it will solve some of the problems mentioned above and end many of the frustrations we feel with the Ninth Circuit Court of Appeals. If I can be of further assistance in your effort to pass this proposal, please let me know.

Sincerely,

MARC RACICOT,
Governor.

Mr. BURNS. Mr. President, I would like to read one part of the Governor's letter. He states ''the Ninth Circuit is simply too large to effectively respond to the needs of those it serves.'' State legislatures of the Northwest consistently and overwhelmingly call on Congress to split the ninth circuit.

On the other hand, the bill is opposed by judges and lawyers in the ninth circuit who would lose control over their fiefdoms. It is also opposed by special-interest groups that apparently care little about the troubles that are caused by the ninth circuit.

Mr. President, as you may know, since I came to the Senate in 1989, I have sponsored numerous bills and amendments that would achieve a split of the ninth circuit and I commend the Commerce, State Justice, Subcommittee on their willingness to again take up the fight in the 105th Congress. It's an old axiom that justice delayed is justice denied. For too long the people of the ninth circuit have been caught in the cogs of the wheels of justice. I want to put a stop to this inequity by dividing this court before its growth overwhelms us all.

Mr. President, in looking at what has been said by some, that it has not been heard, that it has not been studied, let's just take a look and see what has been done since.

In 1974, the Senate Judiciary Committee held hearings on S. 729 to realign the fifth and ninth. It was reported out of committee. Nothing happened.

On March 7, 1984, the Judiciary Subcommittee on Courts held hearings on S. 1156, the Ninth Court of Appeals Reorganization Act of 1983. No action was taken.

On March 6, 1990, the Senate Judiciary Subcommittee on Courts and Administrative Practices held hearings on S. 948, the Ninth Circuit Court of Appeals Reorganization Act of 1989. And there was no action taken.

In 1990, the Intellectual Property and Administration of Justice Committee held hearings on H.R. 4900, the Ninth Circuit Court of Appeals Reorganization Act of 1990. Still no action was taken.

H.R. 3654 died in committee without hearings.

In 1995, the full Senate Judiciary Committee held hearings on S. 956, the Court of Appeals Reorganization Act of 1995. An amended version passed the Senate by voice vote, but it died in the House Judiciary Committee.

So it is not that this has not been looked at and studied. It has always gotten bogged down.

Basically that is what we are talking about here. We continue to talk about the bar association doesn't want it, the judges of the ninth don't want it. When do we start listening to the people who have to use it?

Mr. President, I yield the floor.

I reserve the remainder of my time.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER [Mr. BENNETT]. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I yield 10 minutes of my time to the distinguished Senator from Nevada [Mr. REID].

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if a litigant in the ninth circuit, which covers the areas that have already been spoken of, has a case heard before a Federal district judge or a bankruptcy court and they are displeased with how the case turns out, they have a right to appeal that case. Under the framework of the courts that we have now in this country, that is appealed to the Ninth Circuit Court of Appeals in San Francisco.

That is what we are talking about here today—what happens when a case is appealed from a lower Federal court to the ninth circuit, which is an intermediary step before it goes to the U.S. Supreme Court. That is what we are talking about. It is extremely important if you are involved in the judicial process. There isn't a court that is more important than a circuit court, a Federal circuit court of appeals.

We are very fortunate in the ninth circuit to have the chief judge of the ninth circuit, not only one of the distinguished jurists of this country but also a graduate of Stanford Law School with a great academic record, but, most important for this Senator, is a Nevadan, born in Nevada, went to school in Nevada until he got into law school. We didn't have a law school.

I have spent a lot of time with Judge Hug learning about the ninth circuit. I would ask the Members of this body to reflect upon what the ranking member of the Judiciary Committee said. The ninth circuit is doing an excellent job. They are reducing caseload. In fact, even with nine vacancies, which the distinguished ranking member, the senior Senator from Vermont, established, the ninth circuit caseload is decreasing—not increasing, decreasing. They have increased their termination of cases by almost 1,000 from March 1996 to March 1997. They are doing a good job even though they are handicapped because the Senate won't confirm the vacancies that they now have.

I, first of all, want to thank the distinguished Senator on the subcommittee, Senator GREGG, for taking into account my concerns about the split. I very much want this study to go forward, the amendment that is now before this body. But if it doesn't go forward, it is important that the State of Nevada recognize people—recognize, as the chairman of the subcommittee recognized, that the State of Nevada is now the most urban State in America. Ninety percent of the people live in the metropolitan areas of Reno and Las Vegas. We have tremendously difficult judicial problems. Frankly, the way the State has changed populationwise is we have a great deal in common with the more populated areas of America.

We feel that it would be unfair to have the split any other way than it now is. There may be other and better ways to split this court. That is why this study is so important. That is why the U.S. Senate last year passed a study saying let's take a look at all the circuit courts before a decision is made as to how you are going to split the ninth circuit. We all have a feeling that the ninth circuit is large. It is larger than most all of the other circuits. But the fact of the matter is, how can we determine how it should be split under the terms that it is now being done; that is, before the Appropriations Committee? It is being done for reasons that are not legal in nature. They are political in nature.

Judge Hug said, ''By adding a circuit-split provision as a rider to an appropriations bill, it would completely bypass the Judiciary Committee and would seek to impose a new judicial structure on nine Western States and the Pacific territories without appropriate hearings, public comment, or independent research subsequent of such action.''

Let's, in effect, have the experts take a look at what we should do. The House passed a compromise very comparable to what we did last year. The House passed a bill that says let's have the Chief Justice, the President of the United States, and the minority and majority leaders of the House and Senate pick people to serve on this 10-member commission and to report back to us in 18 months as to what should be done.

I think it would even be better, while all of this is going on, to fill the nine vacancies in the ninth circuit. People

are really concerned about the administration of justice. Let's have the majority move those people through this body as quickly as possible.

The fifth circuit, the most recently split circuit, has only 1,000 fewer cases than the ninth circuit, and the eleventh circuit, the other half of the most recently split circuit, is the slowest circuit for filing the disposition. It is not the ninth circuit, even though we are hamstrung and are short a significant number of judges. If you look at the eleventh circuit, which has 1,000 fewer cases than the ninth circuit, it takes them longer to dispose of a case than the ninth circuit.

So the ninth circuit should be commended for the good work they are doing with the limited resources they have.

Mr. President, there are some who say, ''Well, it is important that we do this because California takes up so much of the ninth circuit.''

Another misstatement of fact: California doesn't do as much work in the ninth circuit as, for example, the second circuit. The second circuit, New York, has 86 percent of the filings; the ninth circuit, only has 55 percent. The fifth circuit takes up 72 percent of the filings; and the eleventh circuit, Florida, takes up 55 percent of the cases.

So, Mr. President, California is not the glutton that people have alleged it to be. They don't take up as many of the case filings as other circuits.

I would compare the qualifications of the ninth circuit judges—those appointed by Republican Presidents and those appointed by Democratic Presidents—with any other circuit. From the finest law schools in America are the judges who serve on the ninth circuit. Five of the senior judges in the ninth circuit were appointed by Republican Presidents; four by Democratic Presidents.

There has been a lot of talk in this body about the Hruska Commission. The Hruska Commission said, in 1974, you should split the circuits. But let's listen to what the experts said about that. I have a letter here dated July 17, 1997, from Arthur Helman, Professor of Law at the University of Pittsburgh. I will read parts of this letter. This is written to the president of the California State Bar Association.

Again, as the Deputy Executive Director of the Hruska Commission, and as a scholar who has studied the ninth circuit extensively during the intervening period, I am in as good a position as anyone to shed light on this matter. My conclusion is unequivocal. Such speculation is baseless.

Mr. President, this isn't some lawyer from California or some professor from California or anyone in the ninth circuit. This is the professor in the School of Law at the University of Pittsburgh.

My conclusion is unequivocal. Such speculation is baseless. The circumstances that led to the Hruska Commission are no longer present, and there is absolutely no reason to think that a new commission would endorse such a proposal. Let me be more specific. The Hruska Commission recommendation was driven primarily by a single factor. The commission believes that ''no circuit should be created which would immediately require more than nine active judges.'' That was a realistic possibility 25 years ago. Today it is not. In fact, of existing circuits, all but one have more than nine active judges. With the nine-judge circuit a relic of the past, a new commission would have no reason to recommend a division of California. A second consideration is also relevant. The Hruska Commission held hearings in the ninth circuit, and, although there was no consensus, several prominent California judges expressed support for the idea of dividing California between Federal judicial circuits.

I know that sounds implausible, but that only underscores how much things have changed since the Hruska Commission carried out its work 25 years ago. Plainly, no such support would be forthcoming today without a record such as the one of the Hruska Commission and with overwhelming opposition from the California bar, no commission would recommend a division of California. For all these reasons the speculation you referred to is totally without foundation. Whatever recommendations the new commission might make, I am confident that dividing California into circuits will not be among them.

Mr. President, in short, we should do the right thing. The right thing calls for having experts report back to us in a reasonable period of time. If they want to do it in a year, even though it would put a tremendous amount of work on them, I would accept that so that next year at this time we could take appropriate action. But to go forward the way we have done in the Appropriations Committee is bad. It is bad legislation and makes this body look bad, and it is bad legislation because it makes our judicial system look real bad. It has never ever happened before that we have divided a circuit court the way we are about to do it now. The lives of people depend on what we do today. Cases that are appealed to the U.S. Supreme Court come from these circuits. I suggest we follow the recommendation of the amendment that is now before this body.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I yield 15 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the chairman for yielding in opposition to the Feinstein amendment and hope that the Senate would concur with the findings of the committee. Commerce, State, Justice appropriations has dealt in what I believe is an appropriate way with the issue of the ninth circuit court. There should be no surprises. This is simply not a new issue. I have always felt, and I think many concur, that if you want to not resolve an issue, you create a commission and study something once again, and we know that this has been studied and recommendations have been made.

In 1973, the Hruska Commission suggested that the ninth and the fifth circuits be split, and the fifth circuit was split, the ninth was not. There was simply too much political controversy around it. My guess is today it is a lot more about politics than it is about justice, justice to the citizens of our country who deserve a timely process in the courts, and certainly with the ninth circuit court being as large as it is, as other Senators have spoken to this afternoon, justice appropriately and timely rendered is the question.

It has been mentioned—I believe the Senator from Montana mentioned that the ninth circuit averages 429 days and that the medium national time average is 315 days. When you are in the midst of a lawsuit, do you set it aside? Do you quit spending money? Do you stop the retainer of the attorneys representing you? I doubt it. And that clock ticks on and the money accumulates, and the cost is high and justice goes unrendered.

Then the question in this very extended court is to whether the justice is appropriate. The Senator from Utah referenced the number of times the Supreme Court this year has overruled the ninth circuit. Those are all part of the issues that brought the citizens of Idaho to me and to my colleague, Senator KEMPTHORNE, to suggest that it was time we dealt with this issue, that it had been since 1973 that the issue was found to be one of division, one of the appropriate allocation of States, money, and judges, and that simply has not occurred.

I hope that we would deal with this.

The bill before us today would put California, Nevada, Guam, and the Northern Marianas in the ninth circuit. It would also create a new twelfth circuit including Alaska, Idaho, Montana, Hawaii, Oregon, and Washington. I am currently a cosponsor of Senator MURKOSWKI's bill, S. 431, which splits the ninth circuit a little differently. However, I find the division in the Gregg-Stevens amendment to be very well though out and fair. I think either split of the ninth circuit would work much better than the current organization of the ninth circuit.

The subject of dividing the ninth circuit split has been discussed now for many years. In fact, as long as 1973, the Hruska Commission suggested the ninth and fifth circuits should be split. Although the fifth circuit was divided, the ninth was not. Ever since then, the debate about splitting the ninth circuit has roared on.

Frankly, Mr. President, I am perplexed why there is any question about this proposal. The ninth circuit is by the largest circuit in the United States. It currently employs 28 judges—11 more than any other circuit. The U.S. Judicial Conference has called any circuit with more than 15 judges unworkable. I guess that means, in the opinion of the Judicial Conference, we have an unworkable situation.

The ninth circuit currently serves 45 million people. This is 60 percent more than the next largest district. The Census Bureau has estimated that by 2010, the population in the ninth circuit will top 63 million people, an increase of 40

percent. The situation has worsened since the Hruska Commission suggested a split of the ninth circuit—a trend certain to continue with further delay.

Over the years of debate on this issue, there has been much discussion of inconsistency and unmanageable caseloads. I would like to change the focus of the argument for just a moment and instead look at the impact on the people of the ninth circuit, which includes the people of Idaho. The size of the ninth circuit also has quite an effect on these individuals.

The ninth circuit averages 429 days from filing to concluding an appeal. This is much longer than the national median time of 315 days. This affects the individuals who resort to the judicial system to resolve a dispute in their lives. It's been said that people in this country want and expect swift, efficient justice and I think they deserve it.

It is not fair for the people in the ninth circuit to be subjected to this inefficiency. People want their disputes to be solved quickly so they can go on with their lives. A lawsuit has the ability to consume everything else in one's life. In the ninth circuit, it consumes their lives for a longer period of time. Also, during this extended process, these individuals are forced to continue paying legal fees. Mr. President, I ask you if 100 extra days in litigation sounds like swift justice.

The huge backlog that develops can lead to different sorts of problems in the Northwest. The economic stability of the Northwest is threatened when suits involving, for example, the timber industry are forced into the backlog of inefficiency.

It is unquestioned that the ninth circuit covers a huge area. However, when that is combined with the 7,000 new filings the circuit had last year, it becomes almost impossible to keep abreast of legal developments in the circuit. The result is everchanging judicial patterns that inevitably make conflicting rulings. This leads to judicial inconsistency, which is not good for the system, or the people who seek relief through the system. This might help to explain the fact that the ninth circuit has an 82 percent rate of reversal by the Supreme Court of the United States. Mr. President, I ask you if this sounds like efficient justice.

Opponents of this legislation argue that the extreme size and population of the ninth circuit is not enough of a reason to support a split. However, that was the exact reason for the split of the former eighth circuit, which created the tenth circuit. It was also the exact reason for dividing the fifth circuit and creating the eleventh circuit. In fact, as I said before, when the fifth circuit was split, it was suggested that the ninth circuit be split as well.

Opponents also argue for the need of a new commission to determine the need for a split of the ninth circuit. Twenty-five years ago the suggestion of just such a commission was to split the ninth circuit. It has grown since then, and is continuing to grow. The proposed split has been discussed for many years now, including Senate Judiciary hearings. There is more than enough data currently in the record to make an informed decision, and that decision should be to split the ninth circuit.

Mr. President, this situation has been a long time in coming. It is now time for us to act. The split of the fifth circuit worked 25 years ago, so there is no reason we should not expect similar success with the ninth circuit. It is time that we recognize the competing interests of the differing regions in the ninth circuit and split them up. I ask that my colleagues support the split of the ninth circuit in the interest of returning swift, efficient justice to the people of the ninth circuit.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I yield 5 minutes to the distinguished Senator from California, my colleague, Senator BOXER.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair. I thank my colleague. I stand in favor of the pending Feinstein amendment calling for a study to decide whether the people would be better served by splitting the ninth circuit and, if so, how to split the ninth circuit.

Mr. President, I am very fortunate at this time to be sitting on the Appropriations Committee, and I knew when I took a seat on that committee it was very powerful. Mr. President, I know you sit on that committee as well, and we are proud to be there. But, in my opinion, I never believed the Appropriations Committee would take it upon itself to determine how to split the ninth circuit. It seems to me if we are going to undertake this, it ought to be a study. The study ought to go to the Judiciary Committee, of which my distinguished colleague, Senator FEINSTEIN, is a member. That is the proper way to serve the people we represent.

Congress has redrawn circuit boundaries only twice since creating the modern appellate system in 1891. So only twice has Congress stepped in. Congress has never divided a circuit without the support of the circuit judges and the organized bar. The judges and lawyers of the ninth circuit overwhelmingly oppose the split without first studying it. The Federal Bar Association and the bar associations of California, Arizona, Nevada, Montana, Idaho, and Hawaii have all passed resolutions expressing their opposition to splitting the circuit. The Ninth Circuit Judicial Council, the governing body for all the courts in the ninth circuit, is unanimous in their opposition to splitting the circuit.

The last time splitting up the ninth circuit was studied was during the Hruska Commission in 1973, and the principal authors of that report, Judge Charles Wiggins of Nevada and former Deputy Executive Director of the Hruska Commission, Professor Arthur Hellman, agree that its recommendation to split the ninth circuit is outdated and they oppose a split without first conducting a study. And that, of course, is what the pending amendment is about, to have a study first.

Now, we hear many comments in this Chamber, and I heard them in committee, about the delay at the ninth circuit. Any delay in total case processing time is clearly due to unfilled vacancies. I have heard this over and over. There are 28 judicial seats on the ninth circuit. Of these 28, there are only 19 active judges. So clearly we have not done our job here, and it seems to me justice delayed is justice denied, and we better get busy.

We have some excellent nominees pending before the Senate and before the Committee on the Judiciary. And I tell you, I have been quite frustrated that we cannot seem to get these nominations up before the body but yet we can seem to bring a split of the ninth circuit with all its ramifications here in lickety-split time without much study. I find it very, very ironic when we have the most qualified candidates who have been selected by Republicans and Democrats alike sitting and waiting here in excess of a year and a half, 2 years.

We hear about the high reversal rate at the ninth circuit, and clearly there is a high reversal, if you look at it this way —28 of 29 cases. However, the Supreme Court elects to hear only a tiny fraction of the more than 4,000 final dispositions issued annually by the circuit. So thousands of cases stand and then 28 of 29 that they chose to hear they reversed.

But, Mr. President, it is interesting. Four other circuits have higher reversal rates than the ninth circuit. The first, second, seventh, and D.C. circuits are all reversed 100 percent of the time.

We also hear that California judicial philosophy dominates the ninth circuit. Ten of the circuits' nineteen active judges actually sit outside California: Arizona, Nevada, and Idaho each have two judges; Montana, Washington, Oregon, and Alaska each have one. And the circuit judges are evenly split between Republicans and Democrats. Of the court's 19 active judges, Mr. President, 10 were nominated by Republican Presidents and 9 by Democratic Presidents. So many of the arguments that we hear today seem to me to be rather specious.

Then we hear the argument that this is very cost efficient, but no one talks about costs of the splitting up of the ninth circuit, and those would be substantial. Creation of a new twelfth circuit would require duplicate offices of clerk of court, circuit executive, staff attorneys, settlement attorneys, libraries, courtrooms, and mail and computer facilities, at an annual cost of $1.3 million.

Now, it may be that this money would be well spent. I certainly am very, very open to splitting this court. That is not a problem for me. The problem for me is how we go about it. Before we invest this money every year plus the $3 million startup costs, and an additional $2 million for leasing space, it seems to me we ought to have a study.

So I strongly support the Feinstein amendment. I am proud to be a cosponsor of it. I hope that wisdom will prevail.

I thank the Chair for its patience. I thank my colleague.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I yield 5 minutes to the Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I have a prepared statement, but I am going to divert from it and frankly just speak from my heart, from my experience. My experience is not long in this Chamber. But my experience among the people of Oregon is very recent. And my experience there with people causes me to rise in opposition to the amendment of the Senator from California. I am reluctant to do that for a personal reason. I am one of Senator FEINSTEIN's great admirers. She may not know that, but I think she is a terrific human being. But I have an obligation to speak as best I can for the people who elected me.

I believe this may be an imperfect process. Maybe it should not be a rider to a bill. But I am very aware that for 25 years this issue has been debated in this Chamber, and we have had study after study after study, and what we are beginning to develop is a feeling among the electorate that when going for justice in the ninth circuit, that justice will be denied. So I think there is a lot of frustration on the part of many of us here that we have to do whatever we can and stop studying and stop delaying and start doing. So I feel very strongly about this.

I have heard many arguments today that have merit on a procedural basis. Yes, maybe many of the legal profession oppose this. But many people support this.

We have heard charges of gerrymandering. I have a map of the United States and the circuit courts of this country. They are saying we are gerrymandering on the west coast of the United States, but I notice that nearly every State on the east coast of the United States is in a different circuit. There are five circuits that cover the Eastern United States, and those circuits have the lowest reversal rates, taken together, of any region in the country. I think we need to change it.

So I rise to support what Senator GREGG is doing. I thank him for that. I thank him for his leadership. He doesn't have a dog in the fight of the ninth circuit, but a lot of us do. So I thank him for that.

I join my colleagues in opposition to this amendment to strike the provision in this bill to divide the Ninth Circuit of the U.S. Court of Appeals. This may not be the most perfect solution to a difficult problem, but I believe that it provides a platform from which to relieve the caseload and reversal rate of the Ninth Circuit Court of Appeals. Serving more than 45 million people and spanning 1.4 million square miles, the Ninth Circuit Court of Appeals handles more than 8,500 filings a year—with a reversal rate of 96 percent. By the year 2010, the ninth circuit population will increase in size by 43 percent.

While my colleague from California may argue that this is an issue for further study, I would like to remind my colleagues that the Senate has studied this issue for almost a quarter century and has reported legislation to split the ninth circuit on three separate occasions. Clearly, the time has come to act.

I want to conclude by reading the comments of some judges who support what is happening here, because some have been read to the reverse.

Mr. President, we are not simply legislating without just cause. The judges that serve in the ninth circuit have given us cause to act without further delay. Judge Diarmuid O'Scannlain from my state of Oregon has stated:

> We (the ninth circuit) cannot grow without limit. As the number of opinions increases, we judges risk losing the ability to know what our circuit's law is. In short, bigger is not necessarily better. The ninth circuit will ultimately need to be split.

I replaced a great senator, Senator Mark O. Hatfield who served in this Chamber for 30 years. He said:

> The ninth circuit's size has created serious problems: too many judges spending more time and money traveling than hearing cases, a growing backlog of cases which threaten to bury each judge, a dangerous inability to keep up with current case law, a breakdown in judicial collegiality and, most importantly, a failure to provide uniformity, stability and predictability in the development of federal law throughout the Western region. It is increasingly clear that these problems cannot be solved by the reforms already implemented by the Court. These arguments adequately state the case for the division of the circuit. We delay at our peril.

Mr. President, justice delayed is justice denied. I ask my colleagues to join me in opposing this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, how much time is left on both sides?

The PRESIDING OFFICER. The Senator from New Hampshire controls 46 minutes. The Senator from California controls 27 minutes.

Mr. GREGG. Does the Senator from California mind if we take another speaker?

Mrs. FEINSTEIN. Not at all.

Mr. GREGG. I yield to the Senator from Idaho for 10 minutes.

Mr. KEMPTHORNE. Mr. President, may I commend the Senator from New Hampshire for his efforts on this issue. I applaud him on that. It is long overdue. Therefore, I must rise in opposition to the Senator from California, for whom I have the utmost respect. She and I happen to have served as mayors in this country at the same time. I prefer it when we are on the same side of an issue. I look forward to that day again.

The time to alleviate the problems being faced by the ninth circuit has long been passed. It is time for us to deal with this. The proposal to realign the ninth circuit was first considered by the Senate nearly 25 years ago. For 25 years we have known that we should be at this point, that we should have made the decision long ago. Yet, the option presented by this amendment would only serve to further delay this long overdue realignment. And further delay serves only to deny access to justice to the people who fall under the jurisdiction of the ninth circuit.

The immense size of the ninth circuit is one of the problems. The next closest circuit in size is the sixth. The sixth circuit has a population of just under 30 million people. The ninth circuit has nearly 50 million people—70 percent more people than does the sixth. And the problem will only get worse because, over the next 12 years, the States which make up the current ninth circuit are expected to grow by 43 percent.

So here we have a problem that is 25 years in the making and getting worse, and now we can see the projections that it is just simply going to be driven to the point that access to justice is absolutely impossible. As a result of the tremendous caseloads, adjudication by the ninth circuit is unnecessarily and unfortunately slow. Recent figures indicate the time to complete an appeal in the ninth circuit is 40 percent longer than the national median.

The people of the ninth circuit are simply not served by the unneeded delay experienced within the circuit. The question before us, therefore, is not a question of politics. It is a question of fairness. The judges in the ninth circuit simply cannot keep up with the number of cases which are being decided. It is nearly impossible logistically for judges within the circuit to know the law as it is being decided within the circuit, and therefore you see inconsistencies, you see problems with not staying up with decisions that have been made elsewhere within the jurisdiction, and therefore we see the cases being overturned.

So, should the people of the ninth circuit have to continue to face the unnecessary delays and judicial uncertainty which is becoming commonplace within the circuit? Should the judges of the ninth circuit continue to be burdened with a system which prevents the kind of collegiality which is necessary for effective decisionmaking? Any objective analysis of these questions reveals that the answer must be no. And, if the answer is no, then we must act now to split the ninth circuit

and provide the people within this jurisdiction the access to justice which all Americans expect and are entitled to. Speaking for the people I represent, I say that it is fundamentally unfair to deny the people of Idaho justice. Yet, the amendment of the Senator from California would continue the kind of injustice that was exposed nearly a quarter of a century ago.

In reviewing a proposal of this magnitude, I believe it is important to speak with those who are most familiar with the situation. With this in mind, I asked Idaho's attorney general, Al Lance, to share his views with me. I believe his words are worth repeating at this time. He said:

> My concerns regarding the ninth circuit include its unwieldy size, inconsistency in decisions issued by its various panels, excessive delay in the issuance of those decisions, as well as the circuit's very high reversal rate when its decisions are reviewed by the U.S. Supreme Court. Furthermore, it is my firm belief that in view of the unwieldy nature of the circuit as it is presently configured, that the true significance of regional and local issues is neither fully appreciated by the court nor reflected in the court's decisions. Establishing a new Twelfth Circuit Court of Appeals will resolve these concerns and, at the same time, reduce the average case processing time by over 400 days to a time period consistent with most other circuits.

In closing, I would like to quote another friend of mine who is the Governor of the State of Idaho, Phil Batt. With regard to the ninth circuit, he stated:

> The court has been overloaded for a long time, and it is in the interest of everyone, especially justice, to split it.

That is what this debate is truly about: justice. I urge my colleagues to vote for justice and to vote against the amendment which is before us. Americans are entitled to justice and they are entitled to access to the justice system, and it is being denied currently in the ninth circuit. The remedy, as proposed by the Senator from New Hampshire, is before us. It is a quarter of a century overdue. It is time for us to take the right action and provide that access to justice for all Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I yield 10 minutes to the distinguished Senator from Nevada, [Mr. BRYAN].

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the senior Senator from California.

Mr. President, I rise to support the amendment offered by the senior Senator from California. In my view, and I speak as one who has appeared before the ninth circuit as an attorney, the provision included in this appropriation bill to divide the ninth circuit and create a new 12th circuit is inappropriate, ill-conceived and ill-advised. I must express my dismay that my colleagues on the Appropriations Committee have seen fit to usurp the jurisdiction of the Judiciary Committee on this matter. If there was ever an issue that deserved to be considered in a thoughtful and careful manner by the Judiciary Committee, it is the issue of reforming our Federal court system.

The Commerce, Justice, State appropriation bill is clearly not an appropriate venue to debate an issue of this magnitude, one that will have far-reaching policy implications, not only for those of us in the West but for the entire Nation.

The Ninth Circuit Court of Appeals Reorganization Act of 1997 would reformulate the ninth circuit to include California, Nevada and the Pacific territories, and create a new twelfth circuit consisting of Alaska, Arizona, Hawaii, Idaho, Montana, Oregon and Washington.

In the 104th Congress, the distinguished senior Senator from Washington introduced legislation that would have placed California, Nevada, Arizona, Hawaii and the Pacific territories in the ninth circuit. That legislation was later modified by the Judiciary Committee to establish a new ninth circuit consisting of California, Hawaii and the Pacific territories, and I have been further advised that at one time a proposal was floating around that would divide northern and southern California into separate circuits.

I mention these various iterations of dividing the ninth circuit to make the point that there is a variety of views as to how best to address the ninth circuit and whether or not it should be divided, and, if so, how it should be divided. But in my view, it is clear the proposal to divide the ninth circuit is more reflective of an act of political expediency than the prudential concerns related to the administration of justice. The sponsors of this provision claim that the ninth circuit is unable to effectively manage its caseload because it has grown too big and that the solution to this perceived problem is to divide the circuit. But this, I fear, is only a smokescreen, for the real reason splitting the ninth circuit being proposed at this time is simply that many do not like the decisions rendered by the circuit.

While they will not admit that one purpose of dividing the ninth circuit is to change the substantive outcomes of decisions, the sponsors have made clear their displeasure with many decisions issued by the court, particularly in the area of natural resource protection. Surely not all of the decisions in the ninth circuit, or for that matter any circuit, come down the way that all of us would like. I, myself, have cosponsored legislation that would reverse the effect of some of the ninth circuit decisions. But I do not believe that differences over the decisions rendered by the ninth circuit are an adequate basis to split the circuit.

What kind of precedent would the Congress then be setting? Would a circuit court of appeals face possible reconfiguration whenever Congress does not like the decisions being rendered? Does this Congress really want to support what is essentially judicial gerrymandering? I hope not. The ninth circuit serves nine Western States and has been one circuit for more than 100 years. Whenever the issue of splitting the circuit is put to a vote of the judges and lawyers in the circuit, the vote has been overwhelmingly to retain the circuit as it is currently constituted.

Who better than those judges who comprise the circuit and those lawyers who represent litigants before the ninth circuit to determine whether or not the ninth circuit is working effectively or not?

It has been my experience that neither judges nor lawyers have been shy about stating an opinion when they think something needs to be changed.

The last study of the Federal Circuit Court of Appeals was by the 1973 Hruska Commission. A fellow Nevadan, the Honorable Charles Wiggins, a ninth circuit court judge, served as a member of that commission. Parenthetically, Judge Wiggins first served as a Republican Member of the House before serving on the ninth circuit. In a letter to California's senior Senator, he stated:

> My understanding of the role of the circuit courts in our system of Federal justice has changed over the years from that which I held when the Hruska Commission issued its final report in 1973. At that time, I endorsed the recommendations of the Commission calling for a division of the fifth and ninth circuits. I have grown wiser in the succeeding 22 years.

We should heed Judge Wiggins' experience—act wisely and not precipitously in dividing this circuit.

The last time a circuit court of appeals split was in 1980 when the fifth circuit was divided and the eleventh created. It should be noted that the judges of the fifth circuit unanimously requested the split, a situation we clearly do not have with the ninth circuit.

In a recent letter, Judge Wiggins wrote me:

> Circuit division is not the answer. It has not proved effective in reducing delays. The former fifth circuit ranked sixth in case processing times just prior to its division into the fifth and eleventh circuits. Since the division, the new fifth circuit is still ranked fifth or seventh, while the new eleventh circuit now ranks 12th, the slowest of all circuits. The Ninth Circuit Court of Appeals judges are the fastest in the Nation in disposing of cases once the panel has received the case.

So the ninth circuit would appear to take the appropriate administrative steps to manage its caseloads through innovative ways that other circuits use as models.

The ninth circuit disposes of cases in 1.9 months from oral argument to rendering a decision. That is less than the national average by 2 weeks. This currently makes the ninth circuit the second most efficient circuit in the country.

So it is obvious the circuit has recognized caseload management is an area

that needs improving and is successfully addressing it.

I find it particularly ironic that in this political environment in which budget decisions are hotly debated and new expenditures are closely watched that a new circuit would be proposed, because it is estimated that a courthouse alone would cost some $60 million and there would be additional costs that would be involved in the transition period. So, therefore, we would face the continuing cost of operating an additional circuit court when, at this point, no determination has been made in a fair and objective way that dividing the circuit is necessary.

In my view, the ninth circuit has worked well for the nine Western States it serves and will continue to do so into the future. For those who believe the ninth circuit must be split, I urge the support of the Feinstein amendment to establish a commission to review the structure and the alignment of the Federal courts of appeals. This is a thoughtful and prudent way to address this issue.

When the information necessary to determine whether any circuits need their geographical jurisdiction changed is available, we can then debate this issue more intelligently, having been thoroughly informed as to the facts. But let us not split the ninth circuit at this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I yield the Senator from Alaska 10 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I rise to oppose the amendment offered by my good friend, the Senator from California, the amendment which would strike the provisions of the bill to divide the ninth circuit into two separate circuits of more manageable size and certainly more manageable responsibility.

The division of the ninth circuit is warranted for three very important reasons: its size and population; its caseload; and its astounding reversal rate by the U.S. Supreme Court. Who holds the ninth circuit court accountable? It is the U.S. Supreme Court.

Let's talk about size and population. I have a chart here which shows the magnitude of the area covered by the ninth circuit. The ninth circuit is, by far, the largest of the 13 judicial circuits, encompassing nine States and stretching from the Arctic Circle in my State to the border of Mexico and across the international date line. That is how big it is.

We are not against California or Nevada. What we want is a recognition of timely judicial action.

Population: The second chart I have shows the number of people served by the ninth circuit. Over 49 million people are served by the ninth circuit, almost 60 percent more than are served by the next largest circuit. By the year 2010, not very far away, the Census Bureau estimates that the ninth circuit's population will be more than 63 million, a 43-percent increase in just 13 years. Talk about not doing anything rash. This population is increasing out of control. We better start doing something now.

On the issue of accountability, Mr. President, and that is most important, the only factor more disturbing than the geographic magnitude of the circuit is the magnitude of its ever-expanding docket. The ninth circuit has more cases than any other circuit. Last year alone, the ninth circuit had an astounding 8,502 new filings. It is because of its caseload that the entire appellate process in the ninth circuit is the second slowest in the Nation. How do they explain that? As a former chief judge, Judge Wallace of the ninth circuit, stated:

> It takes about 4 months longer to complete an appeal in our court as compared to the national median time.

Former Chief Justice Warren E. Burger put it more succinctly when he called the ninth circuit an ''unmanageable administrative monstrosity.''

Let's look at this reversal rate which I want to talk to you about, because there is the issue of accountability. Our responsibility of judicial oversight demands action now. Unfortunately, this massive size often results in the decrease in the ability of the judges to keep abreast of legal developments within this jurisdiction. The large number of judges scattered over a large area inevitably results in difficulty in reaching consistent circuit decisions. This judicial inconsistency has led to continual increases in the reversal rate of the ninth circuit decisions by the U.S. Supreme Court.

During the last Supreme Court session, the Court reversed 19 of the 20 cases that it heard from the ninth circuit. That is an astounding 95 percent reversal rate. How do they explain that? They don't. It is embarrassing, I would think, for the judges. The Supreme Court holds the circuit accountable to the tune of a 95 percent reversal rate. It's about accountability, Mr. President.

Here is the relative ninth circuit reversal rate: 95 percent in 1996; 83 percent in 1995; 82 percent in 1994; 73 percent in 1993; 63 percent in 1992.

Why does this reversal rate continue to increase? Because the circuit is simply too big. Intracircuit conflicts are the result. Ninth circuit Judge Diramuid O'Scannlain, a sitting judge on the ninth circuit, described the problem as follows:

> An appellate court must function as a unified body, and it must speak with a unified voice. It must maintain and shape a coherent body of law. A circuit judge must feel as though he or she speaks for the whole court and not merely an individual. As more and more judges are added, it becomes harder for the court to remain accountable to lawyers, other judges, and the public at large.

Listen to that, ''the public at large.''

> As the number of opinions increase, we judges risk losing the ability to keep track of precedents and the ability to know what our circuit's law is. In short, bigger is not better.

Another sitting judge on the ninth circuit, Judge Andrew Kleinfeld, agrees:

> With so many judges on the ninth circuit and so many cases, there is no way a judge can read all the other judges' opinions. . . It's an impossibility.

Now there you have it, Mr. President. Two statements from two sitting judges about what the problem is.

Some today argue that the Senate is acting in haste. This is entirely untrue. The concept of dividing the ninth circuit is not new. Numerous proposals to divide the ninth circuit were debated in Congress since before World War II. More recent congressional history includes:

A 1973 congressional commission to study realignment with the circuit court, chaired by Senator Hruska, which strongly called for division of the ninth circuit.

Congressional hearings have been held in 1974, 1975, 1983, 1989, 1990 and 1995.

A split of the ninth circuit has been reported from a Senate committee on three occasions, Mr. President.

How long do we have to wait? Dividing the ninth has been studied, debated and analyzed to death. It is time for action.

I have one final chart. This is a statement from retired U.S. Supreme Court Justice Warren Burger:

> I strongly believe that the ninth circuit is far too cumbersome and it should be divided.

U.S. Supreme Court Justice Anthony M. Kennedy who reviews, if you will, the appeals, has this opinion:

> I have increasing doubts and increasing reservations about the wisdom of retaining the ninth in its historic size, and with its historic jurisdiction.

Honorable Diarmuid O'Scannlain, ninth circuit:

> We (the ninth circuit) cannot grow without limit. . . As the number of opinions increases, we judges risk losing the ability to know what our circuit's law is. . .

Judge Kleinfeld currently sitting on the court:

> The ninth circuit is too large and has too many cases—making it impossible to keep abreast of ninth circuit decisions.

Our own former Member, a Senator from Alabama, former Alabama Supreme Court Chief Justice Howell Heflin, who we have the greatest respect for:

> Congress recognized that a point is reached where the addition of judges decreases the effectiveness of the court, complicates the administration of uniform law, and potentially diminishes the quality of justice within a circuit.

That is our own former Senator.

Finally, recently retired Senator Mark Hatfield:

> The increased likelihood of intracircuit conflicts is an important justification for splitting the court.

There you have some of the most respected people we know relative to this subject. The Commerce, State, Justice bill splits the circuit in a rational way. The States of California and Nevada, due to their large population, particularly of California, and the rapid population growth of Nevada, will comprise the new ninth circuit. The balance of the States of the circuit will form the new twelfth circuit. The 49 million residents of the ninth circuit are the persons who suffer. Many wait years before cases are heard and decided, prompting many to forgo the entire appellate process.

In brief, the ninth circuit has become a circuit where justice is not swift and justice is not always served. We have known of the problem of the ninth circuit for a long time. It is time to solve the problem. It is time for action now, and it is time for timely justice.

I urge my colleagues to reflect on this reality and the responsibility that this Senate has to address it. Let's not forget that reversal rate relative to the chart on my right. I am going to leave that up as I yield the remainder of my time, because this is the real story, Mr. President. Here is the accountability of the court, the Supreme Court of the United States, and the number of cases that they have reversed. It is absolutely embarrassing and, as a consequence, action should be taken by this body now.

This is nothing against my good friends from California or the State of California. This just happens to be the reality of the court that we are forced to operate under. To suggest that somehow we don't like the decisions is absolutely silly and unrealistic. These decisions are made on legal merits, as they should be. They have nothing to do relative to the location of the court. This court is simply overworked and is unresponsive to the public, as indicated by the Supreme Court's reversal rate.

Mr. President, I thank the floor manager. I yield the floor.

Mr. HOLLINGS. Mr. President, in the bill before us, we have in there something called the Ninth Circuit Court of Appeals Reorganization Act of 1997. It is hidden in the back of the bill within the general provisions, but boy, does it have great import. This language asks us to split the ninth circuit court into two circuits—the ninth circuit would include California, Guam, Nevada, and the Northern Mariana Islands while the twelfth circuit would include Alaska, Arizona, Hawaii, Idaho, Montana, Oregon, and Washington. Needless to say, I am certain my friends from these States will have something to say about this matter.

While there will be Senators here to talk about the pros and cons of splitting this ninth circuit court, I would like to say to my colleagues that this is neither the time nor place to be talking about this issue at all. As far as I can tell, this is a matter that belongs in the most able hands of our Judiciary Committee. This is not a money matter. This is true and true new authorization language that has no place being on our appropriations bill.

In our full committee mark of the bill, Senators REID and BOXER asked the committee to create a commission to study the state of all the circuits and make recommendations according to the big picture. The rationale behind this is to let the experts who know and understand our circuit courts tell us what they think before we do anything drastic. Expanding Federal caseloads is a nationwide problem requiring a nationwide solution. We can't sit here on our appropriations bill and pretend to be experts as to what's best for the ninth circuit or all the circuit courts, especially without ever having any hearings on the topic, and especially not knowing how much our decision will cost us. Believe me, splitting the ninth circuit court will without a doubt incur upon us additional costs that we haven't even begun to predict.

So I urge my chairman and my colleagues to listen when I say that this issue must go. We need to give this to the Judiciary Committee where I have confidence they will make an informed and thorough decision in a field that is theirs and theirs alone.

Mr. GREGG. Mr. President, can the Chair advise us of the present time status?

The PRESIDING OFFICER. The Senator from New Hampshire controls 30 minutes; the Senator from California controls 19 minutes.

Mr. GREGG. Mr. President, I suggest to the Senator from California, if it is agreeable, that we move to the Senator from Arizona for 5 minutes while we work on a possible unanimous consent agreement for a vote.

Mrs. FEINSTEIN. That is acceptable.

Mr. GREGG. I yield 5 minutes to the Senator from Arizona.

Mr. KYL. Mr. President, I thank my colleague for yielding. This proposal to divide the ninth circuit is especially important to my State.

Mr. GREGG. May I ask the Senator from Arizona to suspend for a second while I propound a unanimous consent request?

Mr. KYL. Sure.

Mr. GREGG. Mr. President, I ask unanimous consent that the vote occur on or in relation to the pending Feinstein amendment at 7:45 p.m. this evening; and further, that the time between now and then be equally divided in the usual form, and that there be no amendments in the second degree.

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

The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

As I said, this provision in the bill to divide the ninth circuit is very important to the State of Arizona because Arizona is the second largest State in the existing ninth circuit, both in terms of population and caseload. It, California, and Nevada are all three very fast growing. And there is no question that the caseload will continue to grow at least in proportion to the population.

Phoenix, AZ, is now the sixth largest city in the country. Arizona is, I believe, the fastest growing State in the country. So not only do we have a situation in which we are growing very rapidly, along with Nevada and California, but the proposed amendment would result in a division of the circuit which would affect my own State of Arizona. So I speak to that issue.

Now, it is not my suggestion, Mr. President, that the circuit be divided. There is a division of opinion in Arizona on that that suggests that the bench and bar are split. I do not think there is a clear consensus in my State as to whether the circuit should be divided, but I think there is a pretty clear recognition that it will be. It will happen sooner or later. It is inevitable, as several of my colleagues have already pointed out here. There is no question, because of its size and other factors, the circuit is going to be divided one way or another.

The question is how will it be divided? On that question I think we have to look at this question of size, population, growth, caseload growth, and so on. Because if, for example, you divided the circuit the way it calls for in the bill, the caseload division would be as follows: The circuit comprised of California and Nevada would have 63 percent of the cases, and the remainder of the circuit would have 37 percent of the cases. That is about a 2-to-1 division, showing just how big California is. Probably in terms of caseload, the sounder way to do it would be just to have California. It would still be about 60–40 in favor of California versus all of the rest of the States in the circuit.

But I gather that the proponents of this have decided to accommodate States who have expressed a willingness, through their Senators, to be added to California or to remain with California, and that Nevada has done that, as a result of which, to accommodate Nevada, it has been put with California.

Now, if Arizona were to be added to that circuit, as some people suggest—again, there is division of view on this—the caseload would be 73 percent for the Arizona, Nevada, California circuit; 27 percent for the rest of the circuit. Obviously, that is not a good division for the circuits. So I have had to consider it from both a perspective of my State and what makes sense how to approach this issue. It clearly does not make sense, from a caseload division, to divide the circuit in a way that would add the three fastest growing States—Arizona, Nevada and California—together. I think it is bad enough to add Nevada and California together, though I do not deny that Nevada has a right to be with California if they desire. But it will soon be unbalanced and soon be the largest circuit in the country.

Mr. President, in the end, I conclude I will not oppose this proposal. I would like to add two comments to those that have been made by my colleagues. First, there has been a suggestion that this circuit would be gerrymandered. I do want to suggest that that is not true. It is not true politically. The division of Democrat and Republican nominees would be exactly the same with the new division as it would be under the existing circuit. So I do not think that anybody believes this is about gerrymandering in a political sense. The percentage of Democrats and Republicans would be the same. Moreover, it is not a geographical gerrymandering. It simply takes two of the States of the circuit and leaves the remaining circuit as it is.

Again, I would prefer that Nevada remain with the rest of the circuit to have a more evenly balanced caseload. Nevada wants to go with California—fine. That creates the anomaly that Arizona is divided from the rest of the circuit. But in the day of air travel, I do not think that is a particularly difficult problem for us, particularly since the committee has seen fit to designate both Seattle and Phoenix administrative sites of the circuit. So you have both a northern and southern administrative site. I know in the existing ninth circuit, cases are argued in Phoenix, Seattle, Los Angeles, San Francisco, and so on. Because of its size, you have to accommodate the travel needs of the parties, the litigants. So there is an accommodation to that. And it would exist in this new circuit as well.

But at least the people in the new circuit would not have to travel to California. So it seems to me that, on balance, maybe the best of a difficult situation has been made. I should say, the best has been made of a difficult situation. That is how to make a division that results in a fairly even distribution of cases, No. 1, and that does not divide the State of California, which I objected to along with Senator FEINSTEIN. So in the end, Mr. President, conceding that division is ultimately going to occur, it seems to me that this is a division that makes sense. Therefore I will not oppose it.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from California.

Mrs. FEINSTEIN. I think the distinguished Senator from Arizona knows I greatly respect him, from working together on other issues. I think we work very well together.

I want to directly address something that he has said about the fairness of this split, particularly with respect to the size. I say to him, that isn't the issue. The issue is how the judges are split. I say to the Senator, this legislation splits the judges. The way in which it splits the judges is 15 judges for the ninth circuit, and 13 judges for the newly formed twelfth circuit. Now, the caseload means that the ninth circuit court judges have a 50 percent greater caseload per judge than do the twelfth circuit court judges.

The Senator and I discussed these kinds of issues a year or so ago. I hope you will recall when we were discussing this in the Judiciary Committee.

There is a letter dated July 18 of this year to Senator REID from Chief Judge Procter Hug. What Judge Hug points out is:

> Under the bill, the Ninth Circuit is to have 15 judges and the Twelfth Circuit is to have 13 judges. The Ninth Circuit would have a 50% greater caseload per judge than the Twelfth.

He goes on and shows the total for California, Nevada, Guam, Northern Marianas, with a total caseload of 5,448.

> With 15 judges, the caseload per judge—363 cases, then the caseload for Alaska, 204; Arizona, 891; Hawaii, 204; Idaho, 141; Montana, 175; Oregon, 626; Washington, 871, with a total of 3,112.
>
> With 13 judges, the caseload per judge—239 cases. That is one of my big objections. One thing I would just bet my life on is, as a product of a study, there will be a fairer distribution of judges.

Mr. KYL. Will the Senator yield?

Mrs. FEINSTEIN. If it is on your time, I would be happy to yield.

Mr. KYL. That would be up to Senator GREGG. I am going to agree with you, so perhaps——

Mr. GREGG. I have no problem with that. This colloquy can be on our time.

Mr. KYL. I want to say, we discussed the allocation of judges before. The Senator is exactly correct. I totally agree with you there should be a fair allocation, meaning that it should be in rough proportion to the caseload, and the projected caseload, not just the existing caseload. Therefore, if that means that there should be a different division of the judges vis-a-vis the States in the new circuit, I would not only have no objection to that, but I would join the Senator from California in assuring that that is the case.

This was not my proposal, as the Senator from California knows. But I would suspect that the proponents of this amendment would be very happy to ensure that that distribution of judges is made a part of the legislation. At least, I would work with the Senator from California to assure that that would be the case.

Mrs. FEINSTEIN. I very much appreciate that, and I take you at your word. However, what this legislation does will be the law if it is accepted by the House.

Mr. MURKOWSKI. Could I ask my friend from California a question?

Mrs. FEINSTEIN. Of course.

Mr. GREGG. At this time I would have to reclaim my time because we do have some additional speakers. So any additional colloquy should come off the time of the Senator from California.

Mrs. FEINSTEIN. If I may just make my quick statement here.

On four occasions, the Federal judges of the ninth circuit and the practicing lawyers of the Ninth Circuit Judicial Conference have voted in opposition to splitting the circuits. The official bar organization of Arizona—as recently as July 14, a few days ago—and the bars of California, Hawaii, Idaho, Montana, and Nevada, and the National Federal Bar Association, all have taken positions against the circuit division. No State bar organization to this day has taken a position in favor of circuit division, let alone this division.

Now, let me try to begin to summarize here.

I believe strongly—and I think the other side knows I do not throw these comments around loosely—that this is really being done for the wrong reasons and in the wrong way. I think some people did not like some of the decisions, specifically in mining and grazing. For some it is being done because they think they will get more judges for their State. I have had Senators tell me that directly. For some, a new courthouse is attractive.

The point is, the House of Representatives has passed the very bill, the amendment of which I am carrying here in the Senate. This proposal, notwithstanding anything anyone has said, as a member of the Judiciary Committee for the last 4½ years—there has never, Mr. President, in the time you've been there, there has never been a hearing on this split. There has never been a discussion of the ramifications of this split on legal precedent or forum shopping. There has never been input from the judicial council, from the judges, from the bar associations on this split. That is fact, Mr. President. That is fact.

Yet, an appropriations committee has stolen the jurisdiction of the Judiciary Committee and moved ahead and proposed a split a few weeks ago—2 days later they had a split which split California in half—the next day that was gone and there was the split we are faced with today. That is why I say it is a gerrymander.

If this were a map before a court on an electoral district with Arizona floating out here alone, they would say, aha, it is a gerrymander. Yet it can be done by a committee that does not even have authorizing oversight jurisdiction, and, bingo, it is before the full body. I really have a problem with that. I do not think that is right.

I happen to agree with my chairman, California is going to have 50 million people by the year 2025. We should take a look at whether or not the interests of justice would be carried out by splitting the largest circuit in the Union. I do not have a problem with that.

What I do have a problem with is worrying, aha, is this being done because Montana does not like a mining decision? Is it being done because Washington does not like a timber decision? Is it being done because someone else doesn't like another decision? Is it being done because a state wants an additional judge?

I mean, this is a very real and pertinent consideration because never before in the history of the Union has a

circuit been split in this manner. So it is indeed very, very important.

No consideration of costs. I pointed out the Pasadena and San Francisco courthouses; $140 million has just been spent on them. My goodness, I can see the spot done now on television. ''They spend all this money.'' I believe there is no way you can build new courthouses, and staff them with duplicate positions, and not have it cost at least $100 million in 1997 dollars. And do you know what? This goes into place, Mr. President, in October of this year.

This is almost the end of July, and then there's August, September, and October 1 this goes into effect. No hearing; no study; no talk; no what do you think, bar of Arizona; what do you think, bar of Nevada; what do you think, bar of Alaska; or what do you think, bar of Idaho? It doesn't meet the smell test. That is the problem for me.

Now, let me talk——

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

Mrs. FEINSTEIN. If I may finish my thought, the point has been made—and the distinguished Senator from Alaska made this point very well—that 28 out of 29 cases of this session were reversed by the United States Supreme Court. Bingo, it is a terrible circuit. Well, let me say that that is only 28 cases out of over 4,480 cases. It is the largest circuit. That is a very small percentage of the cases it successfully adjudicated.

Let me just go back to Judge Hug's letter because I believe there is something important here. The caseload per judge in the ninth circuit would be 124 cases per judge higher than the twelfth circuit, or 52 percent greater, as I have said, than the twelfth.

Then he raises this:

> The provision in the bill for coequal clerks in the twelfth Circuit is completely unworkable. How can it be efficiently administered in this way? Is the administration of the circuit to be done in two separate, coequal headquarters? Where would the circuit executive be located?

These are all questions that need to be answered. This thing would go into effect on October 1. No question is answered.

Then Judge Hug says in his letter:

> Consider the travel time and expense of the judges. Presumably, the judges from Alaska and Montana will need to travel half of the time to Phoenix, and the Arizona judges will need to travel half the time to Seattle. Presently, the circuit headquarters in San Francisco is equal distance, and the air routes convenient. This would not be the case in the new twelfth circuit. I don't know whether that's good or bad. My point is that it ought to be looked at. If we had been able to move ahead, and the House and the Senate agreed on the study, it would have been done by now. The study would have been done by now. It is a year and a half ago. It would have been done by now. Instead, we are faced with another arbitrary proposal for a split. We are rushing it through. It is an arbitrary split. No one has looked at costs, or at fair distribution of judges; no one has heard from a judge or from a bar association on this split; and no members of any of the bars of any of the States have indicated their support for this—none, zero, zilch, none. October 1, it goes into play. It does not make sense.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 11 minutes.

Mrs. FEINSTEIN. I yield the floor and reserve the balance of my time.

Mr. MURKOWSKI. Will the Senator from California yield for a question?

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. MURKOWSKI. I ask for 1 minute.

Mr. GREGG. Mr. President, I yield the Senator from Alaska a minute.

Mr. MURKOWSKI. I believe the Senator from California indicated, Mr. President, that new California judges would have a 50 percent increase in caseload, and the Senator from California indicated that would not be enough judges. I wonder if she meant to say that, in the new ninth circuit, there would be 63 percent new cases and 53 percent judges, and in the twelfth circuit, there would be 37 percent new cases and 42 percent judges, which are the figures that we have from the committee, which hardly reflect a 50 percent increase in the caseload.

Mrs. FEINSTEIN. Mr. President, I would be happy to respond. I am reading from a letter dated July 18, signed by Procter Hug, Chief Judge, U.S. Court of Appeals for the Ninth Circuit. What he points out is—he is using what I believe is current caseload. I would be happy to share this with the Senator. I read this accurately:

> The total caseload filings in California, Nevada, Guam and the Northern Marianas would be 5,448. The filings in Alaska, Arizona, Hawaii, Idaho, Montana, Oregon, and Washington would be 3,012.

The point is, with 13 judges, the twelfth circuit would have 239 cases per judge. The ninth circuit would have 363 cases per judge. That is an unfair allocation of cases per judge.

Mr. MURKOWSKI. I will not further comment, other than to point out that I don't think it is a fair statement to suggest that California judges would have a 50 percent increase in caseload, because that is not reflected.

Mrs. FEINSTEIN. The Senator misunderstood me. If I might respectfully get this straight——

Mr. MURKOWSKI. I have no further questions.

Mrs. FEINSTEIN. Mr. President, I will reclaim a moment of my time to say this. Let me quote the chief judge:

> The ninth circuit would have a 50 percent greater caseload per judge than the twelfth circuit.

That letter is here. Anyone can see it.

I yield the floor and reserve the remainder of my time.

Mr. GREGG. Could the Chair advise us of the time status?

The PRESIDING OFFICER. The Senator from New Hampshire has 14 minutes and 48 seconds.

Mr. GREGG. And the Senator from California?

The PRESIDING OFFICER. She has 9 minutes 2 seconds.

Mr. GREGG. I yield to the Senator from Alaska, the chairman of the committee, 9 minutes.

Mr. STEVENS. Mr. President, I shall not use that much time. I do appreciate the courtesy of the manager of the bill.

Mr. President, we have studied this matter to death. The issue, in 1973, was recommended by Senator Hruska and the Hruska Commission was created. It recommended then, in 1973, that the ninth circuit court be split. Every Congress we hear the same thing from the large delegation in the House and the two Senators in the Senate from California: we need more study. I think that is what we are hearing again now—have another study.

It has only been 24 years now that we have been studying since the first commission reported. But, of course, we do need the advice of another commission.

Mr. President, I am a California lawyer. I was raised in California, and I am pleased to have that background. But I tell you, in all sincerity, I cannot believe that we can continue this situation. This chart—I am not sure it can be seen, Mr. President. This chart shows the population and caseload of the circuits. Clearly, the population is almost 50 million people in the ninth circuit, and it requires some change when, clearly, the average of all of the others is somewhere around 20 million people.

I want to address the concern spoken to, I think, by my good friend from Hawaii, Senator INOUYE. It has been 13 years now since a Hawaii resident was appointed to the ninth circuit. Fourteen judges have been seated on the circuit since that time, but Hawaii was never recognized. Senator INOUYE has included an amendment in this provision that guarantees that at least one judge will be appointed to the circuit court of appeals from the new circuit, when it is created, from each State. Now, I think the Senate should listen to that kind of frustration and should listen to the frustration of those who see how long it takes for a case to be decided by the Ninth Circuit Court of Appeals.

Mr. President, I said the other day that the Ninth Circuit Court of Appeals judges come to our State. They come during the summer, and they have a delightful time visiting our State. In the wintertime, all our people fly south and some of our lawyers like that. But the litigants don't like it because the average time that an appeal is pending before the ninth circuit is so long, it puts a great burden upon our States, the smaller States in this circuit.

Now, in 1995, the Senate Judiciary Committee report showed that New York accounted for approximately 87 percent of the second circuit docket; Texas cases were approximately 70 percent of the fifth circuit docket. We have considered splitting the ninth circuit before several times since I have been in the Senate. Mr. President, the overload of the ninth circuit is now such a serious problem, and it is only going to get worse if we continue to

talk about another commission to discuss whether this split should take place.

The appellate process, for almost one-fifth of the citizens of the United States, will continue to be inadequate. I believe we are doing California a favor by splitting this court. They are the only State that has one circuit all to itself, all to itself—well, Nevada could make the decision to join if they wish. But the establishment of tribunals is a responsibility of the Congress, not of a commission. It is one of our most important responsibilities under the Constitution. I believe the Senate will shirk its responsibility if we do not act to correct this problem of the ninth circuit, and I urge the Senate to do what this amendment would do: create a new twelfth circuit and allocate to it the States that are suffering greatly by the current crowded situation and long delays in the Ninth Circuit Court of Appeals.

I thank the Chair and yield back the balance of my time.

Mr. GREGG. Mr. President, does the Senator from California have any additional speakers?

Mrs. FEINSTEIN. I would like to know how much time I have remaining, if I might.

The PRESIDING OFFICER. Nine minutes.

Mrs. FEINSTEIN. I reserve the balance of my time.

Mr. GREGG. Does the Senator plan to close? We have one additional speaker. I will have that speaker go if the Senator is planning to close as the final speaker.

Mrs. FEINSTEIN. I will speak after the Senator from Washington.

Mr. GREGG. I yield the balance of our time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senator from California makes a serious argument: we should not split the circuits because we will waste the $140 million investment in a courthouse in San Francisco, except that we can split the circuits if this so-called study commission says we should do so, and she would then have no objection.

Well, either the courthouse is an important consideration, or it is not an important consideration. Obviously, Mr. President, it is not an important consideration. I presume—I hope—that the Senator from California is not arguing that, even if there is a split, all of the staff and all of the people who are now in that courthouse in San Francisco would still be there and everything has to be added onto that. That is often a way in which the Federal bureaucracy operates. But there is no reason in the world for us to allow it to operate in that fashion under this set of circumstances.

This can be done efficiently and effectively. But that is the fundamental argument against this amendment and in favor of the bill as it stands. The ranking minority member of the Judiciary Committee said that this is the wrong way to act. The Senator from California says this is the wrong way to act because it is on an appropriations bill.

Yet, 2 years ago when a bill practically identical to this was reported by the Judiciary Committee, after full hearings and a full debate, they objected to it even being debated on the floor of the U.S. Senate. Now for the first time we have an opportunity to do so.

This Senator has favored this flip since the early 1980's. And this is the first time we have ever been able so much as to debate it on the floor of the U.S. Senate.

The arguments against the proposal for split are essentially procedural. ''Oh, no, we have not had enough hearings. We have not talked about it for a long enough time. There have not been enough study commissions.''

There have been hearings for decades. There has been a debate for decades. It simply cannot be argued in any kind of rationale manner that a circuit with this number of States, with 14 million square miles of land and water, with almost 50 million people growing more rapidly than any other part of the country, with 28 authorized judges at the present time, 10 more requested on top of that, can be a collegial body, a court that can understand the cases that come in front of it, a court in which the members can even learn the names of the other members of the court.

Of course a division is appropriate, and the division that is being discussed here today is the division, if there is to be one, that the Senators in opposition asked for.

We are criticized because the bill changed in form as it got in front of us. Well, California is not divided because the Senators from California ask that it not be divided. And we went along.

Nevada remains a part of the ninth circuit because the Senators from Nevada asked that that be the case as against the bill that was reported 2 years ago.

Hawaii and the trust territories are with the new twelfth circuit because, assuming a division, that is where they wanted to be.

Yes, there have been changes, but they have been changes requested by the very Senators who are here on the floor arguing against the result of their requests. Justice in these circuit courts will be done better in circuits that are roughly similar to the other circuits—all of the other circuits in the United States. Each of these circuits will still have more square miles than any other, except for, I believe it is the tenth in the Mountain States, and more when you include Alaska. The ninth circuit will still be the largest of any and all of them.

I don't believe this is going to be the last such division. But it is a division whose time came almost a quarter of a century ago. And that has been resisted by lawyers and judges who are comfortable with the present situation, with the wonderful travel opportunities they have, and rank that convenience ahead of the convenience of individuals seeking justice before those courts who can be served far better, far closer to home, with far more understanding, if this division becomes law, than if we simply say, ''Oh, let's wait. Let's have another study. And let's let that study come up with the same results we did before. And then we will have another excuse to oppose the division.''

That is what we got when we heard, on the one hand, ''Fine, let's have the study, and we will agree with it. But, no, we can't divide the circuit because we have a brandnew $140 million courthouse in San Francisco.''

No, Mr. President, it is time for the Senate of the United States to deal with this question as a matter of substance today. It is time to do justice. It is time to reject this amendment and pass this bill.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I believe I have 9 minutes remaining on my time. I would like to yield 7 of them to the distinguished Senator from Delaware, the former chairman of the Judiciary Committee.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Thank you very much.

Mr. President, this is not the right way to do this. Let me repeat that again. This is not the right way to do this. If the circuit were to be split, we should do it in a way we have done it in the past.

When some of my colleagues who have argued for the split in the past have come before the committee, they have said some of the following things. The argument is, ''Well, the reason we want a split is we don't want to have the court, basically a California-dominated court, making judgments for the folks in my State. We are different.''

And I point out to my colleagues who say that, you know, it is a funny thing about the circuit courts. Our Founding Fathers set the circuit courts up for a basic fundamental reason. They didn't want 50 different interpretations of the Federal Constitution. It is kind of strange. The whole purpose of the circuit court of appeals was to make sure there was a uniform view as to how to read the Constitution—not a Montana reading, not a Washington State reading, not a Nevada reading, not a Hawaii reading, and not an Alaska reading. Geography is relevant only in terms of convenience—not ideology.

This is all about ideology at its core. That is what this is about. That is what the attempt to split it is about.

There is no data to sustain that this should be done. Let the Judicial Conference make a judgment, make a recommendation to us. Let them decide as they have in the past.

I say to my friends from the South, before I got here, we split up what used to be a giant circuit from Texas to Florida. The Senator's home State was part of the Presiding Officer's home State, was part of this giant district of the circuit court, and it got split. We did it the right way. We got the facts. We heard from the Judicial Conference. We listened to the court.

This is about politics. It is no way to deal with the court. It isn't how to do this.

Let's look at what we have. We don't have any data on the operation of the circuit as it is presently configured. So, therefore, it seems to me, we should at least give some weight to those folks who are on the court, and those folks who are litigants argue before the court—the bar of those States.

With that in mind, let me point out that the Ninth Circuit Judicial Council, the governing body of all the courts in the ninth circuit, is unanimously opposed to this—Republican appointees to that court, Democratic appointees to that court, liberal appointees, conservative appointees, pointed-head appointees, flat-headed appointees. They are all opposed.

Let's look at the next thing that makes sense to look at—those who litigate before the court.

The California bar is opposed to this. The Arizona bar is opposed to this. The Hawaii State Bar Association is opposed to this. Big Sky Country Bar from Montana is opposed to this. The State of Nevada's bar is opposed to this, and the State of Idaho.

Mr. President, I would also point out that splitting the circuit, as proposed, will not guarantee that certain regional interests will be better represented. Keep in mind that is what this is really about—regional interests.

That is the part that bothers me about how we are going about this.

Look, I am from the third circuit way back East—Pennsylvania, Delaware. So I am not telling anybody in the other part of the country what their business is. But it offends me that we have argued at least—I have not been here for the debate—in the committee based upon regional bias. There is not a Western Federal Constitution. There is not an Eastern Federal Constitution. There is not a Southern Federal Constitution. There is one Constitution—one.

Another problem with this legislation that the court will face is the costs incurred. Dividing this circuit requires trading an infrastructure to support the new twelfth circuit. The Ninth Circuit Executive Office estimates that the initial startup cost for the establishment of the new twelfth circuit would amount to tens of millions of dollars. Operating costs of maintaining two circuits have been estimated to be more than $5 million per year.

Look, I think the Senator from California has been eminently reasonable throughout this whole process. By the way, if anybody wonders whether this is not about regionalism, which is the worst thing we could be talking about when we talk about the Federal Constitution, let me remind my colleagues of a point in fact.

No ninth circuit judge has been appointed to the court for a long time because those who, in fact, are suggesting that this should be split said, ''Unless it is split, we are not letting any judges go on the court.''

Think of that now, Mr. President. Isn't that nice?

''You won't split the court so we can have a regional division. We are not letting any folks get on the court. And then we are going to tell you that the court is overworked. Then we are going to tell you the court has a backlog. Then we are going to tell you the court has a problem.''

The reason, if it does, is because they have arbitrarily held up the appointments.

Republican judges from the circuit have come to my office—Democratic judges from the circuit, Reagan appointees, Bush appointees—and said, ''Can't you do something?'' I said, ''You are talking to the wrong guy. You are preaching to the choir. Go to the guys who are blocking these judges.''

So, Mr. President, you can make an argument that this court is overworked. You can make the argument that this distribution is but part of the argument. The reason is a self-fulfilling prophesy. You don't put judges on the circuit. You create a problem.

I can see my time is up. I thank my colleague for yielding.

This is a bad idea. It is not the right way to go about it.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Delaware for his excellent comment. I agree with him 100 percent. This is the wrong way for the wrong reason. The reasons are regional. The reasons are, if we do not like the decision, we don't appoint the judges.

One-third of the ninth circuit today is vacant. I repeat, one-third of the judgeships on the ninth circuit today are vacant. And I do not believe that there is a plan to appoint another judge to the ninth circuit until we bow to this. What we are bowing to is something that has never been heard, never been studied in the 4½ years that I have been on the Judiciary Committee of the Senate.

Mr. President, I ask unanimous consent to include in the RECORD a July 14, 1997 statement of the Arizona bar in opposition to this split, a statement of the California bar in objection to this, a recent letter from the Governor of the State of California in objection to this, a July 22 letter from the chairman of the House Judiciary Committee in objection to this, a letter from the chief judge of the ninth circuit in objection to this, and the chief judge's letter on the unfair allocation of judges. I also have in my files letters objecting to the earlier proposals to split the circuit. These include letters of objection from the State Bar of Nevada, the State Bar of Montana, the State Bar of Hawaii, the Los Angeles County Bar, lawyers' representatives of the ninth circuit, and the Judicial Council.

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

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 22, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR ORRIN: I understand that this week the Senate is expected to consider S. 1022, the Commerce-Justice-State-Judiciary appropriations bill. Included in the bill is a major piece of substantive legislation, the ''Ninth Circuit Court of Appeals Reorganization Act of 1997.'' This provision of the bill (section 305) would amend Title 28 of the United States Code by dividing the existing Ninth Circuit into two new circuits. As you well know, altering the structure of the Federal judicial system is a serious matter. It is something that Congress does rarely, and only after careful consideration.

It is anticipated that an amendment will be offered to replace the circuit division rider with legislation to create a commission to study the courts of appeals and report recommendations on possible change. This legislation, H.R. 908, has already passed the House unanimously on a voice vote on June 3, 1997. A similar bill, S. 956, was passed unanimously by the Senate in the 104th Congress. This is a far superior way of dealing with the problems of caseload growth in the Ninth Circuit and other courts of appeals. I urge your support for the amendment.

Sincerely,

HENRY J. HYDE,
Chairman.

STATE CAPITOL,
Sacramento, CA, July 11, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR ORRIN: I have been closely following the renewed interest in Congress over proposals to split the Ninth Circuit. I understand that a new proposal, under consideration by the Appropriations Committee, would split the Ninth Circuit and divide California in half between the resulting circuits. I am writing to register my strong opposition to the passage of any such measure prior to such time that an objective study is commissioned and issued addressing the many, serious ramifications of such a split.

As you may know, I have been on record in opposition to previous proposals to split the Ninth Circuit on the grounds that they were a form of judicial gerrymandering which sought to cordon off some judges and keep others.

However, the present proposal to split California between two circuits would not only amount to judicial gerrymandering but would invite forum shopping of the rankest kind. California would face the unprecedented prospect of a ''circuit split'' on a question of law within the same state, which would invite lawyers to ''forum shop'' between the two resulting halves of California on the basis of which law is more favorable to their position. This would be particularly frustrating for State government, where

legal challenges to its actions may generally be brought in any venue within the State.

While a split of the Ninth Circuit would generate a number of inconsistent rulings along the West Coast in areas such as commercial law, environmental law (including standing to sue), and admiralty law, a split of California would exacerbate this inconsistency by subjecting Northern California's cities, like San Francisco, to different controlling law than Southern California's cities, like Los Angeles.

Nor would the spectacle of forum shopping between circuits within California be alleviated by a mechanism similar to that proposed in a 1993 House bill (H.R. 3654), which suggested the creation of an ''Intercircuit California En Banc Court.'' As proposed in that bill, the Intercircuit California Court would permit en banc review by judges of different circuits ''whose official duty stations are in the State of California.'' Such an intercircuit en banc panel would necessarily differ from the composition of the en banc panels for each of the participating circuits. This, of course, raises the specter of greater inconsistencies among the circuits arising from overlapping en banc panels. As the proposal would permit the Intercircuit Court to resolve only intercircuit conflicts of federal law, conflicting interpretations of California substantive law arising in diversity cases would presumably remain unresolved. Of course, these additional circuits would impose additional burdens on the U.S. Supreme Court.

Admittedly, the Ninth Circuit handles more cases than any other circuit. However, statistics refute any objection that the Circuit is ''too big.'' The median time for it to decide appeals (14.3 months as of September 30, 1995) is less than that for the Eleventh Circuit (15.1 months), and only slightly higher than that for the Sixth, Seventh and District of Columbia Circuits.

The real issue underlying this debate appears to be one of judicial gerrymandering, which seeks to cordon off some judges in one circuit while keeping others in another because of concerns, whether perceived or real, over particular judges' perspectives or judicial philosophy. If this is the issue, I submit that the proper means to address it is through the appointment of judges who share our judicial philosophy that judges should not make policy judgments, but should interpret the law based on the purposes of the statute as expressed in its language, and who respect the role of the states in our federal system.

I urge you to discourage your colleagues from approving any proposed split of the Ninth Circuit, and particularly one that splits California, until such time as a study is issued that carefully examines the implications of this significant issue. I would be pleased to contribute one or more representatives to assist with such a study.

Sincerely,

PETE WILSON,
Governor.

THE STATE BAR
OF CALIFORNIA,
San Francisco, CA, July 14, 1997.

Re State Bar of California Support for Commission to Study the Federal Courts of Appeals and Opposition to Splitting the Ninth Circuit Court of Appeals.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: The Board of Governors of the State Bar of California strongly opposes the recent proposals to split the Ninth Circuit Court of Appeals. We support the establishment of a non-partisan commission to study the structure and alignment of the federal courts of appeals. A bill to establish such a commission, H.R. 908, unanimously passed the House in June. It has been 24 years since the last major study of the structure and alignment of the federal courts of appeals was conducted. No proposal to restructure the Ninth Circuit should be considered prior to the completion of a thorough study.

Some have argued that the size of the caseload of the Ninth Circuit argues for its division; however, caseload growth is an issue common to courts of appeals nationwide. Splitting the Ninth Circuit, ostensibly because of its caseload, before considering how to respond to growing caseloads nationwide, will complicate rather than advance solutions to caseload growth. Furthermore, repeated division of circuits in response to growth is likely to create a proliferation of balkanized circuits.

We have heard that various proposals to split the Ninth Circuit may be made in the Senate Appropriations Committee, for example, to include California and Nevada in one circuit and to join other states in the Continental United States in another circuit, including non-contiguous Arizona; or to place California in a single circuit with the island territories, with all other states presently in the Ninth Circuit in a separate circuit. The variety of proposals indicates that there is no consensus, even among proponents, as to how any split should be achieved.

We are strongly opposed to all of these proposals to split the Ninth Circuit. They represent a form of judicial gerrymandering and are not based upon any study of the Ninth Circuit or of the overall needs of the federal courts of appeals. They violate the established principles that federal judicial circuits encompass three or more states and be designed to transcend parochial interests. These proposals are likely to increase the problems of the federal courts of appeals and make these problems more costly and difficult to fix. The multiplicity of proposals that have been made, without study, simply emphasize the need for a thorough study of the federal appellate courts as a whole.

For these reasons, we believe that any proposal to split the Ninth Circuit, or to realign any other circuit, needs to be informed by a non-partisan study of the structure and alignment of the federal courts of appeal.

I have written a similar letter to Senator Boxer, who is a member of the Senate Appropriations Committee.

Sincerely,

THOMAS G. STOLPMAN,
President.

STATE BAR OF ARIZONA,
Phoenix, AZ, July 14, 1997.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: This letter is simply to confirm that the State Bar of Arizona has repeatedly opposed any division of the Ninth Circuit Court of Appeals, and supports the House's proposal for a study commission.

Sincerely,

DON BIVENS,
President-Elect.

UNITED STATES COURTS,
FOR THE NINTH CIRCUIT,
Reno, NV, July 23, 1997.

Hon. DIANNE FEINSTEIN,
U.S. Senator,
Washington, DC.

DEAR SENATOR FEINSTEIN: This afternoon we had a meeting of the active and senior judges of the Ninth Circuit Court of Appeals, for the sole purpose of discussing the current efforts underway by the Senate Appropriations Committee to split the Ninth Circuit. After a thorough discussion, the judges voted overwhelmingly to support the creation of a study commission to study the structure of the circuits.

Altering the structure of the federal judiciary system is an extremely serious matter, something that should be done rarely and only after careful, serious study and consideration.

We strongly urge the members of the Senate to support the creation of a commission to conduct a thoughtful, thorough and complete study of the matter.

Our court asked me to convey to you our appreciation for your continued leadership in this matter.

Yours sincerely,

PROCTER HUG, Jr.,
Chief Judge.

UNITED STATES COURTS
FOR THE NINTH CIRCUIT,
Reno, NV, July 18, 1997.

Hon. HARRY M. REID,
U.S. Senator,
Washington, DC.

DEAR HARRY: After reviewing this matter yet again, I have some possible arguments for the floor of the Senate, giving examples of why this is a hasty and ill-considered bill and why a Commission should study such an important issue.

1. Under the bill, the Ninth Circuit is to have fifteen judges and the Twelfth Circuit is to have thirteen judges. The Ninth Circuit would have a 50% greater caseload per judge than the Twelfth Circuit.

States:

	Filings
California	4,840
Nevada	500
Guam	87
Northern Marianas	21
Total	5,448
With 15 judges, the caseload per judge	363
Alaska	204
Arizona	891
Hawaii	204
Idaho	141
Montana	175
Oregon	626
Washington	871
Total	3,112
With 13 judges, the caseload per judge	239

The caseload per judge in the Ninth Circuit would be 124 cases per judge higher than the Twelfth Circuit, or 52% greater than the Twelfth.

2. The provision in the bill for co-equal clerks in the Twelfth Circuit is completely unworkable. How can it be efficiently administered in this way? Is the administration of the circuit to be done in two separate co-equal headquarters? Where would the Circuit Executive be located?

3. Consider the travel time and expense of the judges. Presumably, the judges from Alaska and Montana will half the time travel to Phoenix, and the Arizona judges will half the time travel to Seattle. Presently, the circuit headquarters in San Francisco is equidistant and air routes convenient. This would not be the case in the new Twelfth Circuit.

Harry, I suggest these arguments be saved for the floor to avoid changes or arguments prepared to meet them.

Yours Sincerely,

PROCTER HUG, JR.,
Chief Judge.

STATEMENT OF ADMINISTRATION POLICY
THE JUDICIARY: NINTH CIRCUIT

The Administration opposes the provision in the Committee bill that would reorganize

the Ninth Circuit by splitting it into two separate circuits. We understand that other substantive amendments to divide the Ninth Circuit may be offered on the Senate Floor. The Administration strongly objects to using the appropriations process to legislate on this important matter. The division of the Ninth Circuit is an important issue not just for the bench and the bar of the affected region, but also for the citizens of the Ninth Circuit. The Administration believes that a much better approach would be passage of legislation, H.R. 908—already passed by the House and currently pending at the desk in the Senate—that would create a bipartisan commission to study this difficult and complex question and make recommendations to the Congress within a date certain. This would allow for substantive resolution of the issue in a deliberative manner, allowing all affected parties to voice their views.

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

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

Mr. GREGG. Mr. President, I have a couple of minutes left.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Before getting to a vote on this issue, just let me make this point.

Were this a judicial proceeding, there is something called judicial notice. That is like water runs downhill and the Sun comes up in the East. I think the Court would take judicial notice of the fact the ninth circuit does not work; it is too big; it has too many people for one circuit to manage; it has too many judges to work effectively; it has too large a geographic region. This is an attempt to address that issue. It is a very important issue to address. It is an affordable issue to address. I hope my colleagues will vote down this amendment.

Have the yeas and nays been asked for on this amendment?

The PRESIDING OFFICER. They have not.

Mr. GREGG. Does the Senator from California wish to ask for the yeas and nays?

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—45

Akaka	Durbin	Landrieu
Baucus	Feingold	Lautenberg
Biden	Feinstein	Leahy
Bingaman	Ford	Levin
Boxer	Glenn	Lieberman
Breaux	Graham	Mikulski
Bryan	Harkin	Moseley-Braun
Bumpers	Hollings	Moynihan
Byrd	Inouye	Murray
Cleland	Johnson	Reed
Conrad	Kennedy	Reid
Daschle	Kerrey	
Dodd	Kerry	
Dorgan	Kohl	
Robb	Sarbanes	Wellstone
Rockefeller	Torricelli	Wyden

NAYS—55

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner
Enzi	Mack	
Faircloth	McCain	

The amendment (No. 986) was rejected.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New Hampshire.

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

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

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, is it in order to send an amendment to the desk at this point?

The PRESIDING OFFICER. Is there objection to laying aside amendment 979? Without objection, it is so ordered.

AMENDMENT NO. 989

(Purpose: To Strike the Provisions Dealing With the Withdrawal of the United States From Certain International Organizations)

Mr. SARBANES. 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 Maryland [Mr. SARBANES], proposes an amendment numbered 989.

On page 124, beginning on line 5, strike all through page 125, line 2.

Mr. SARBANES. Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to direct my colleagues' attention to section 408 of this bill, on pages 124 and 125. I am absolutely stunned to find this language in this legislation, because it provides for our withdrawal from the United Nations.

What it says, if I understand it correctly, is that if the appropriation does not come up to the level of the U.N. assessment, then the United States shall withdraw from an international organization, but I assume it is primarily directed at the U.N.

Let me just read a couple of paragraphs to my colleagues.

The United States shall withdraw from an international organization under this section in accordance with the procedures identified for withdrawal in the treaty, pact, agreement, charter, or other instrument of that organization which establishes such procedures.

Unless otherwise provided for in the instrument concerned, a withdrawal under this section shall be completed by the end of the fiscal year in which the withdrawal is required.

This is a small section located in the latter part of this legislation. As you read through this bill, all of a sudden, you come across the provision. If we are going to withdraw from the U.N., we ought to have a full-scale debate. This is not a minor decision. There are some people in the country who would like to do that, but if we are going to undertake to do so we ought to have a full scale debate.

What this section says as it starts off is:

Notwithstanding any other provision of law, the United States shall withdraw from an international organization if the President determines that the amount appropriated or otherwise available for a fiscal year . . . is less than the actual amount of such contributions. . . .

In other words, the assessments. So, if we do not appropriate the full assessment, as I understand this section, the President has to begin withdrawal procedures.

There are many years when we have not met the assessment. In fact, we continue to run arrearages. We just passed legislation here that had certain conditions for paying our U.N. dues, that withheld certain amounts, required certifications, and so forth and so on.

I don't know where this provision came from but it is a backdoor way of compelling our withdrawal from the United Nations.

The amendment that was sent to the desk would strike this section from the bill. I urge my colleagues to support the amendment. We should not be talking about withdrawal from international organizations. We are the world's leading power. We essentially use these international organizations to serve our interests. Now we come to this section, which is sort of hidden away. The upshot of it would be to, in effect, lead us to begin withdrawal procedures from the United Nations.

I don't think we even ought to have any references to withdrawal. Certainly the way this provision is written, the bill is going to force us out of the U.N.

I hope the committee, upon reflection, would agree to drop the section from the bill.

Mr. HATCH. Will my colleague yield for a second?

Mr. SARBANES. Certainly.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. He is just yielding to me. But I absolutely agree with you. I absolutely agree with you. Let me tell you, during this last cold war time, I had a lot to do with the ILO when I was chairman of the Labor Committee and ranking member there, and ever since, when our tripartite organization—Government, labor and business—saved this country and countries all around this world from the tyranny of totalitarianism, right at the ILO.

I can remember one trip I made over there because Irving Brown called me. He was the head of our delegation. He was the International Vice President of the AFL–CIO, and in my opinion the strongest anti-Communist in the world at the time. He stopped the Communists from taking over the French docks. He went into Paris before the end of the Second World War—one of the most heroic figures I ever met in my life. And he led our delegation with the full support of labor, business, and Government, year after year. He died here a few years ago. I went to his memorial service here.

But I know what the ILO has meant to this country and what it has meant to free trade unionism around the world and what it has meant to freedom.

I have to tell you, if we have this provision continue in this bill, since all three of these organizations, the WHO, the ILO, and the agricultural organization, we are behind in payments to them, it would mean it would have to come down to choosing one of them that they would delete. I can tell you right now, the one, probably the weakest that would be deleted, would be the ILO. I have to tell you, that preserves free trade unionism around the world, it protects freedom around the world, and, I have to tell you, quells disruptions and problems all over the world. It helps us all over the world to spread democracy.

I don't want to see that happen, and I think the distinguished Senator from Maryland has brought up a very, very good point here. I call my colleagues' attention to it. I am grateful he has yielded to me for these few remarks. I hope they have been helpful to my colleagues on both sides, but I have been there, I know how important this is. I believe this is not the thing to do, to have that particular language left in there as it is. So I support my colleague from Maryland.

Mr. BIDEN. Will the Senator from Maryland yield for a brief comment?

Mr. President, this is the second time we have addressed this issue in the last several weeks. A similar provision was in the State Department authorization bill that we dealt with. We raised the issue then, and the Senator moved to strike a similar provision, a withdrawal provision. It was accepted by a voice vote. This bill went on to pass the Senate 90 to 5, I believe.

I am surprised this issue has surfaced again. Not only does section 408 depart from the State Department authorization bill, but it is bad policy; it is just simply bad policy.

I hope my friends, the managers of this bill, will consider the fact that we have been through this once already and maybe allow us just to have a voice vote and move on. We have enough to fight over in this bill.

I have much more to say on this, but, as the old joke goes, everybody has already said it, so I am not going to repeat it. The Senator from Maryland is absolutely right; it is a repeat of what we did.

I thank the Senator for yielding to me, and I yield the floor.

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

Mr. GREGG. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The legislative clerk continued to call the roll.

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

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

Mr. LOTT. Mr. President, I seek recognition so we can announce there will be no further rollcall votes tonight. There will be at least one vote tomorrow. And I believe that we can say there will be one vote tomorrow. It will be an important vote. We expect that that vote will be either on the tuna-dolphin issue or, more than likely, under the agreement we are going to propound, it would be on the global warming issue.

So there would be a vote tomorrow. A time would have to yet be determined exactly what time that would be, but probably not before 10 o'clock in the morning. And then we hope to work out some understandings with regard to State, Justice, Commerce. And then we would probably not have final votes on that until next Tuesday, I believe it would be.

So that is the point I wanted to announce. There will be at least one vote tomorrow, and no further rollcall votes tonight. We will make an announcement with regard to Monday later on, in a few minutes, or tomorrow, about the situation on Monday.

Mr. MCCAIN. Is the leader's intention, if there is no agreement on tuna-dolphin, that there will be a cloture vote tomorrow morning on tuna-dolphin that he had previously anticipated?

Mr. LOTT. Unless there is an agreement, there will be a cloture vote on tuna-dolphin, but we are working on an agreement where it may not be in the morning. But we will have one in short order. We are trying to work through all the different players and make sure everybody has been consulted. That is why we are not asking for the UC right now.

I think I should go ahead and say to the chairman of the Appropriations Committee, it would be our intent, because of requests of a number of Senators, and because of the cooperation we have received, that we would not have any recorded votes on Monday. But we are trying to also clear an agreement that the Democratic leader indicated he would like to approve with us to take up the Transportation appropriations bill some time during the day on Monday, but it would not lead to recorded votes. The next recorded vote would be tomorrow, and then Tuesday morning and Wednesday morning under the agreements we are working. But we have not cleared them with everybody at this point.

With that, at this time, 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. KERRY. 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. KERRY. Mr. President, I ask unanimous consent to proceed as in morning business.

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

(The remarks of Mr. KERRY pertaining to the introduction of S. 1067 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I can engage in a brief colloquy with the chairman of the subcommittee.

The PRESIDING OFFICER (Mr. BROWNBACK). Is there objection?

Mr. SARBANES. Reserving the right to object, I don't think it is necessary to set the amendment aside in order to have a colloquy.

The PRESIDING OFFICER. The Senator is correct. It is not necessary.

Ms. COLLINS. I stand corrected.

Mr. SARBANES. Mr. President, I object to the request, but it doesn't preclude the distinguished Senator from having her colloquy.

The PRESIDING OFFICER. The objection is heard. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I ask unanimous consent to be recognized for such time as I may consume for a brief colloquy.

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

NWS REORGANIZATION

Ms. COLLINS. Mr. President, I rise today to engage in a colloquy with the distinguished chairman of the subcommittee, Senator GREGG, regarding the National Weather Service's ongoing top-to-bottom review of its operations and structure.

I am taking this opportunity today to express my hope and belief that this review process will conclude that the Weather Service Office in Caribou, ME, should be fully upgraded to a Weather Forecasting Office. I just want to comment very briefly, Mr. President, on a few of the reasons why the Caribou Weather Service Office should be upgraded.

In general, it is the Weather Service's policy that weather forecasting

offices should cover roughly 17,000 square miles. Right now, the Weather Forecasting Office in Gray, ME—which is more than 230 miles from Caribou—is attempting to provide services for roughly 63,000 square miles, an area more than three times larger than the norm. Given the huge area involved, it is extremely difficult for the small staff of a Weather Service Office to provide the services necessary to ensure public safety.

For example, the Weather Service Office currently has only one electrical technician who must service equipment in Frenchville, Caribou, Houlton, and as far south as Millinocket, in Penobscot County. This is an enormous workload for just one employee, particularly in light of the possibility that repairs may be needed at the same time at different locations far away from each other.

Accurate and timely weather reports are essential to Aroostook County, the largest county in Maine, for two reasons: one involving public safety, the other an economic concern.

Mr. President, northern Maine experiences more than its fair share of severe weather, including blizzards in the winter months. Many of my colleagues have probably heard weather reports in which my hometown of Caribou has recorded the lowest temperature in the Continental United States. Accurate and timely weather reports are essential for public safety.

The second reason for upgrading the Weather Service Office centers on the nature of the economy in the county. Natural resource-based industries such as agriculture, logging, and tourism are the mainstay of the county's economy. Our potato farmers, for example, must have quality weather forecasts and reports in order to know best when to plant and harvest their crops.

For these public safety and economic reasons, I am convinced that upgrading the Weather Service Office in Caribou is a necessary action for the National Weather Service to undertake, and I hope that the Appropriations Committee will act favorably on upcoming funding requests.

Mr. President, I yield the floor so that my distinguished New England neighbor and colleague, Senator GREGG, may respond to my concerns.

Ms. SNOWE. Mr. President, I am pleased to join my colleague from Maine, Senator COLLINS, and the distinguished chairman of the subcommittee, Senator GREGG, today to discuss an issue of utmost importance to Aroostook County, the Caribou Weather Service Office.

The bill before us requires the National Weather Service [NWS] to consult with the subcommittee before making any reprogramming requests in relation to the top-to-bottom review that is currently underway. As part of their review, NWS will consider whether the Caribou Weather Service Office should be upgraded to a weather forecasting office.

Under the National Weather Service's modernization plan, a weather forecasting office will have Doppler radar. The Doppler radar would give Caribou the ability to forecast warnings for sudden and severe changing weather patterns so that the communities the weather station serves will be able to respond quickly. At the present time, the nearest Doppler radar is in Gray, ME, more than 200 miles away. This is too far away to be of immediate help to Aroostook County.

Aroostook County is one of the largest counties in the United States—the size of Connecticut and Rhode Island combined—and its economy is dominated by agriculture, trucking, and forest products industries, all of which rely heavily on timely and accurate weather information. The Caribou station provides vital information on a daily basis to northern Maine communities that must deal with a wide range of weather patterns from bitter cold and snow to severe thunderstorms and flooding. An upgrade from a weather service office to a weather forecasting office would improve the weather forecasting abilities of the Caribou station, thereby improving the ability of the affected towns to react to sudden and severe weather changes.

Once the NWS has completed its review, I look forward to working with Chairman GREGG and the subcommittee to ensure that the recommended changes are funded in an expeditious manner.

Mr. GREGG. Mr. President, I appreciate the Senator from Maine raising this very significant issue to the folks of Northeastern Maine. Those of us who have been to Caribou understand that it is the coldest place in America, consistently, and recognize that the issue of weather and predictability of weather is very important. Also, I know how important upgrading the Caribou Weather Service Office into a Weather Forecasting Office is for the people of Aroostook County. It is a major issue, and I can understand how strongly my friend and colleague from Maine feels about this matter.

The Senator from Maine, Senator COLLINS, has made a very persuasive case for why the Weather Service Office in Caribou, ME, should be upgraded into a Weather Forecasting Office. We must always work to ensure public safety, and given the enormous land area, a Weather Forecasting Office would be a tremendous benefit for the people of northern Maine.

You have my assurance, Senator COLLINS, that when the subcommittee receives the National Weather Service report and recommendations on a reorganization plan, the subcommittee will work closely with you regarding the Caribou, ME, Weather Service Office.

Ms. COLLINS. I thank the Senator very much for his assistance.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

SLAMMING

Mr. REED. Mr. President, I would like to take a moment to discuss a sense-of-the-Senate resolution which is included, I believe, in the managers' amendment, with the concurrence of the Senator from New Hampshire and the Senator from South Carolina.

The thrust of my amendment is to confront an issue which is growing—the issue of slamming—where individuals who have signed up for long distance telephone service have their service changed illegally. This is a growing problem, a problem that we must confront. It is a problem that—in fact, as I considered it, I also contemplated the construction of an amendment to this appropriations bill that would have dealt with the problem by mandating better proof that a customer has actually changed service, including criminal penalties for slamming, and other deterrences.

As I spoke with my colleagues and law enforcement officials, I came to realize, through many different viewpoints, that an amendment at this time would delay the appropriations process. So rather than introducing an amendment, I have proposed a sense-of-the-Senate resolution which, again, I believe has been accepted and will be maintained within the managers' agreement.

Before going forward, I commend and thank the chairman, Senator GREGG, and the ranking member, Mr. HOLLINGS, and also Chairman MCCAIN and Chairman BURNS for their generous assistance in this endeavor.

Mr. HOLLINGS. Mr. President, if the distinguished Senator will yield. The Senator from Rhode Island has done a valuable service to the Senate in bringing this to our attention. The FCC has just promulgated a rule relative to slamming just this past week. This sense-of-the-Senate resolution is consistent with it, in the sense that it would require the mandating of the evidence itself, civil fines, and a civil right of action. I think it really emphasizes the concern that all of us have had in the communications field of this particular malpractice. I hope we can help, with this sense-of-the-Senate resolution, emphasize the need to expedite the rulemaking on the part of the FCC. I thank the distinguished Senator from Rhode Island and I join in his resolution.

Mr. REED. Mr. President, I yield to the Senator from New Hampshire, without losing my right to the floor.

Mr. GREGG. Mr. President, I support the efforts of the Senator from Rhode Island to put a sense-of-the-Senate resolution in this bill relative to this very important issue. His sense of the Senate tracks the FEC regulation. I think it is very appropriate that he has raised the visibility of this issue, and the sense of the Senate will be included in the managers' amendment.

Mr. REED. Mr. President, reclaiming my time, I thank the Senator from New Hampshire for his support. I would

like to just briefly describe the problem and also the ongoing discussion with the FCC and also here within Congress.

First, as both my colleagues have indicated, this is an alarming and growing problem. The Federal Communications Commission is dealing with the problem now. They will shortly propose a rule that will take away the financial incentive for some of these renegade companies who essentially illegally change service. Surprisingly, today under FCC rules, a renegade company can, in fact, illegally switch a customer and still get the benefits of that month or of several months of charges. The FCC has proposed to change this.

This sense-of-the-Senate resolution supports that proposed rule change and the other activities the FCC is contemplating. One of the reasons we are here today is that, under the present rules of the FCC, telephone companies must get either a verbal or written response in terms of a formal request to change. The problem with respect to a written consent is that, many times, they are hidden in sweepstakes promotions, giveaways and, in fact, the nature of the written response is unknown to the consumer. Once again, the FCC is proposing to change this new rule. I support that change and encourage them to go forward.

The phone company can also rely upon the verbal assent of a consumer, but there are problems with this verbal assent, also. Some of the problems we have seen with telemarketers are the fact that they will deceive the consumer about identity or the nature of the service, or they will obtain the consent of a child, or stranger in the household, or disregard the consumer's decline to switch the service, or flatout not even bother to get the verbal assent and claim that they do in retrospect. The problem with this verbal authorization is proof. Again, the FCC has taken some steps in this regard. They are proposing to eliminate what is an option today, where someone presumably could consent over the phone and then receive a package later from the company requiring that consumer to send a card in to deny the service change. The FCC once again is trying to eliminate that procedure, also.

These are all positive steps. I encourage, and this resolution encourages, the FCC to pursue those steps.

This is a major problem for consumers in the United States. Fifty million people each year switch their phone service. One million of those switches are likely to be fraudulent. One regional carrier now estimates that 1 in 20 of the switches in their system are fraudulent switches. This problem has tripled since 1994. It is now the FCC's No. 1 consumer complaint. Therefore, this problem is something that we should deal with, and deal with decisively.

In my own home State of Rhode Island, there are abundant examples of consumers who have been disadvantaged by this illegal switching. Indeed, the Rhode Island Public Utilities Commission has noted this complaint as the No. 1 complaint they receive with respect to telephone services. For example, a small businessperson in Newport, RI, had his 800 number switched, and rather than an 800 number, the only people who could call the business were residents of Alaska.

In Smithfield, RI, a family had their phone service illegally switched. They protested, but before they could rectify the problem, their phone service was terminated because they refused to pay the bill for the illegal company that switched them.

These are problems that have to be addressed, and I hope are being addressed today by the FCC, and perhaps ultimately our legislation in this body.

What I hope we could do would be to focus more resources of the FCC on this problem. In 1996, the FCC received 16,000 complaints about slamming, but they only were able to successfully prosecute and induce judgment against 15 companies. They don't have the resources. They need those resources. Indeed, I worry that law enforcement agencies around the country not only lack resources but lack, ultimately, the proof that a switch has been made illegally. Law enforcement officials in certain States, such as Connecticut, Wisconsin, California, Texas, and Illinois, have been successful, but they need additional support.

Indeed, one of the major elements of the legislation I was contemplating was the requirement not only of written proof but, also, in the case that an oral or verbal consent was given, some type of recording of assent so that law enforcement authorities could verify decisively whether or not the appropriate assent had been made. It is necessary for us to balance the needs for a flexible system by which consumers can make choices and change their service to one that protects their right to ensure that it is their choice and not the result of fraudulent or manipulative practices by unscrupulous companies. I believe we can do that.

I believe we have taken a step forward today with this sense-of-the-Senate resolution to start on that path. I look forward to offering independent legislation which I think will assist the current effort of the FCC to resolve this grave problem that is growing each day.

Once again, I thank my colleagues, Senator GREGG, Senator HOLLINGS, Senator MCCAIN, and Senator BURNS, for their work and for their effort on this. Others are interested. I know Senator CAMPBELL and Senator DURBIN are also interested in this problem.

We have an opportunity today to send a strong message to the FCC to move forward and also to continue to contemplate and deliberate about legislation which will assist in their efforts and end this scandalous problem, the No. 1 consumer complaint today with respect to telecommunications slamming.

I thank my colleagues. I yield the remainder of my time.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I had a discussion with the Senator from North Dakota. I am going to be very, very brief, with his indulgence.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Mr. KERRY. Mr. President, I ask unanimous consent that we temporarily lay aside the amendment for the purpose of introducing my amendment, and the moment my introduction is completed that the pending amendment will return and be the pending amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 992

(Purpose: To provide funding for the Community Policing to Combat Domestic Violence Program)

Mr. KERRY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KERRY), for himself, Mr. DODD, Mrs. MURRAY, Mr. LAUTENBERG, and Mr. JOHNSON, proposes an amendment numbered 992.

Mr. KERRY. 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 29, line 18, insert ''That of the amount made available for Local Law Enforcement Block Grants under this heading, $47,000,000 shall be for the Community Policing to Combat Domestic Violence Program established pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968: *Provided further,*'' after ''*Provided,*''.

STOP DOMESTIC VIOLENCE NOW

Mr. KERRY. Mr. President, this amendment continues the successful COPS ''Community Policing to Combat Domestic Violence'' Program. Police departments currently use these COPS funds for domestic violence training and support. This amendment would allow local law enforcement agencies to renew their grant funding so they can continue to employ innovative community policing strategies to combat domestic violence.

Mr. President, domestic violence is a very serious national problem. Almost four million American women were physically abused by their husbands or boyfriends in the last year alone. A woman is physically abused every 9 seconds in the United States. Women are victims of domestic violence more often than they are victims of burglary, muggings, and all other physical crimes combined. In fact, 42 percent of women who are murdered are killed by their intimate male partners. In Massachusetts, 33 women were killed in domestic related cases in 1995. This

amendment is necessary to fight this epidemic of domestic violence.

Mr. President, this problem of domestic violence affects all classes and all races. More than one in three Americans have witnessed an incident of domestic violence according to a recent nationwide survey released by the Family Violence Prevention Fund. Mr. President, battering accounts for one-fifth of all medical visits by women and one-third of all emergency room visits by women in the U.S. each year. As Dartmouth, MA, Police Chief Stephen Soares said recently, domestic violence ''goes from the lowest economic planes to the highest in terms of professional persons. There isn't a line drawn in terms of profession or money.''

Domestic violence hurts women and hurts our economy. The Bureau of National Affairs estimates that domestic violence costs employers between $3 billion and $5 billion each year in lost work time and decreased productivity. In a recent survey of senior business executives, 49 percent said that domestic violence has a harmful effect on their company's productivity. Forty-seven percent said domestic violence negatively affects attendance and 44 percent said domestic violence increases health care costs.

Mr. President, domestic violence also has tragic effects on children. Children who witness the violence often do poorly in school, repeat the pattern of either victim or abuser as adults, and are more prone to have a variety of emotional problems.

According to Linda Aguiar, the head of ''Our Sisters' Place'' in Fall River, Massachusetts, ''One child that was at the shelter, we found out he had taken knives from the kitchen and hid them in the bedroom. He did this because he was afraid his father would come. He thought his father would come and put a ladder to the window.''

To attempt to deal with these problems, Congress in the 1994 Crime Act provided that up to 15 percent of the funding for the COPS program could be made available for innovative community policing activities. A small part of that money, $47 million, was made available to police departments for domestic violence training and support. I would like to read excerpts from a letter I received from the Chief of Police of Chelmsford, MA, about the COPS Domestic Violence program. He said, ''It has come to my attention that the federal grant entitled 'Community Oriented Policing Services Combating Domestic Violence'' (COPS) has not been approved—As you know, domestic violence is a serious law enforcement and societal problem that we are just beginning to face. Every year, millions of women are abused and hundreds are murdered by members of their own family. It's time that society began viewing these atrocities as a crime. We must put forward the necessary attention and funding to solve this problem. The COPS grant does exactly that. It provides advocacy, training, and research toward ending this problem. Without this funding victims of domestic abuse and police officers will have nowhere to turn for support, education, resources and training.''

Mr. President, the COPS Domestic Violence Program has been a success. In Massachusetts, police departments have used the money to fund many anti-domestic violence activities:

The Gardner Police Department and a local battered women's resource center were able to establish school-based support groups for children affected by violence in their homes. More than 250 children ages 5–10 have benefited from this program.

In Somerville, nearly 100 city police officers and an equal number of representatives of local non-profit service agencies received anti-domestic violence training. As a result, a young woman who appeared in the Emergency Room seeking assistance for domestic violence was referred to a nurse supervisor who helped her get a restraining order, safety planning, and other support.

Officers in the Domestic Violence Unit of the Fall River Police Department, in coordination with a local battered women's and children's shelter, have been able to conduct personal follow-up in more than 1,100 incidents of domestic violence since September of 1996.

Mr. President, before these funds were available, many local law enforcement agencies lacked the resources to provide anti-domestic violence training and support. In 1995 prior to the awarding of the COPS domestic violence grant, police in Gardner, MA were called to intervene in a dispute involving domestic abuse. Due to the lack of cooperation from the victim, officers did not have sufficient evidence to arrest her boyfriend, but instead were only able to escort him off the property. Two hours after the incident, the victim's boyfriend returned to the property and set it afire, and the woman was killed by asphyxiation. Subsequent to this crime the suspect was arrested, convicted of the crime with which he was charged and sentenced to time in prison. This incident demonstrated the need for a victim's advocate employed by the police department who might have been able to convince the woman of her need for help and then intervene on her behalf. Due to the COPS Domestic Violence grants, the Gardner Police Department now has the resources to more successfully combat domestic violence.

When the Department of Justice announced these Community Policing to Combat Domestic Violence grants on June 1, 1996, police departments were promised 1 year of funding with the ability to receive two additional years of funding. Unfortunately, these successful Domestic Violence programs will be denied the additional 2 years of funding because of a little-noticed change, included in the appropriations bill report language, which no longer allows up to 15 percent of COPS funds to be used for innovative community policing activities such as anti-domestic violence training and support for local law enforcement agencies.

Our amendment earmarks $47 million of the $503 million provided by the Commerce/State/Justice Appropriation bill for the Local Law Enforcement Block Grant (LLEBG) to renew funding of grants made under the COPS Domestic Violence Program. It is appropriate that this money be earmarked for this purpose because the Local Law Enforcement Block Grant Program was designed to provide funds to local governments to fund crime reduction and public safety improvements broadly defined. Additionally, the LLEBG already contains several earmarks in the C/S/J Appropriations bill: $2.4 million for discretionary grants for local law enforcement to form specialized cyber units to prevent child sexual exploitation, and $20 million for the Boys and Girls Clubs.

Some will argue that this appropriations bill increases funding for the Violence Against Women Act (VAWA) and that therefore no additional funds are needed to confront domestic violence. However, that is incorrect for three reasons. First, the increase in funding for the Violence Against Women Act is only $15 million, far less than the $47 million needed to renew the COPS Domestic Violence grants. Second, only 25 percent of the VAWA money goes to police departments—most of the rest goes to prosecution and direct victims services. Third, most of the VAWA money for police departments goes to buy equipment, not for training and support.

Mr. President, this funding is necessary to help police departments to deal with the epidemic of domestic violence. I would like to thank Senators DODD, LAUTENBERG, and JOHNSON for joining me in proposing this important amendment and urge all my colleagues to support it.

Mr. DODD. Mr. President, I rise to support the amendment of my colleague, the Senator from Massachusetts [Mr. KERRY]. This amendment will restore the COPS antidomestic violence grants created by the Violence Against Women Act—a program of vital importance that funds local police and community initiatives to combat domestic violence.

Domestic violence is a serious scourge on our society. Once every 9 seconds, a woman is beaten by her husband or boyfriend, according to FBI crime statistics. Four women are killed each day at the hands of their domestic attackers, according to the National Clearinghouse for the Defense of Battered Women. And 16 people were killed by family violence in Connecticut between September 1995 and September 1996. That is totally unacceptable.

Mr. President, for quite some time I have been extremely concerned that

antidomestic violence programs currently funded through domestic violence COPS grants will no longer have a source of funding as the COPS grants for this purpose are eliminated.

For too long before Congress enacted the 1994 crime law and Violence Against Women Act, domestic violence was considered a private matter—something to be dealt with inside the home, and outside of public view and public policy. The Violence Against Women Act represented a consensus that government and our communities should work together to prevent and stop domestic violence, and that it should be one of our highest priorities.

In Connecticut, many communities were able to rise to that challenge when they received anti-domestic violence grants under the COPS program. More than ten Connecticut cites and towns have used these grants to establish law enforcement infrastructures to support a diverse range of anti-domestic violence programs, each specifically tailored to the needs of that local community. I recently had the opportunity to visit with two police chiefs who are using anti-domestic violence COPS grants to run domestic violence prevention and intervention programs in Bridgeport, CT, and Groton, CT. They have developed different programs that make use of a wide range of resources to fight domestic violence, utilizing police officers, involving victims' shelters and services, incorporating counseling for both victims and batterers, and aggressively pursuing prosecution of batterers.

Programs like these send a message from our communities to victims and batterers alike. These programs say that domestic violence has no place in Connecticut or anywhere in our country. These programs say that if you are a batterer, we will stop you, we will catch you, and we will prosecute you to the fullest extent of the law. And I am told by police chiefs throughout Connecticut that that is why these programs, and the funds that make them possible, have truly improved their ability to combat domestic violence. Domestic violence is preventable, if we provide the funding for initiatives to stop it.

Now, however, the elimination of antidomestic violence COPS grants threatens to force an untimely end to successful programs like those in Connecticut. Law enforcement officials would be hindered in their effort to prevent domestic violence and catch and punish perpetrators, and victims of domestic violence would continue to suffer. Let's not abandon police chiefs when they've just begun to win the battle against domestic violence. Let's not turn our backs on the victims who need our help.

I wrote to the Commerce-State-Justice appropriators to ask them to maintain the funding for these important programs, and I am pleased today to cosponsor the amendment that would do just that. Hundreds of police chiefs and countless victims across the country are counting on us to do no less.

I thank the Senator from Massachusetts for his amendment, and I join him in urging my colleagues to adopt it.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I thank the Senator from Massachusetts for finishing expeditiously and for his help on a number of issues throughout the day as we try to get an agreement on how we can proceed for the remainder of the day, and when we can get votes tomorrow and next week.

Mr. President, I ask unanimous consent that the following be the only remaining first-degree amendments in order to S. 1022, and they be subject to relevant second-degree amendments.

Mr. President, I will submit the list since there are several of them. But everybody has been consulted on this list. The Democratic leadership is aware of it as well as the Members on this side.

I ask unanimous consent that the list be printed in the RECORD.

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

DEMOCRATIC AMENDMENTS TO COMMERCE-STATE-JUSTICE

Baucus, EDA.
Biden, COPS.
Biden, trust fund.
Bingaman, registration of nonprofits.
Bumpers, OMB.
Byrd, anti-alcohol.
Conrad, relevant.
Daschle, law enforcement.
Dorgan, sense of Senate—Univ. Service Fund.
Dorgan, NII grants.
Graham, public safety officers.
Harkin, funding for globe.
Inouye, Ninth circuit—northern territories.
Kennedy/Leahy, capital murder.
Kerry, COPS.
Lautenberg, PTO.
Reed, SoS telecom slamming.
Robb, public safety grants.
Sarbanes, Sec. 408 pending No. 989.
Wellstone, Legal Services Corp.
Wellstone, Legal Services Corp.
Harkin, private relief.
Hollings, managers.
Hollings, managers.

REPUBLIC AMENDMENTS TO STATE-JUSTICE-COMMERCE

Domenici, court appointed attorney's fees.
Hatch, DOJ LEG. AFFAIRS.
Burns, Mansfield fellowships.
McCain, INS inoculations.
Stevens, Cable laying.
Hatch, Limitation of funds for Under Secretary of Commerce.
DeWine, Visas.
Helms, Technical.
Warner, Terrorism.
Coverdell, DNA testing/sex offenders.
Bond, small business.
Warner, patent trademark.
Kyl, masters.
Abraham, INS fingerprinting.
Stevens, womens World Cup.
Coats, gambling impact.
McCain, relevant.
McCain, relevant.
Burns, EDA.
Hatch, antitrust provisions.
Gregg, relevant.
Hatch, local law enforcement.

Mr. LOTT. Mr. President, I further ask unanimous consent that all amendments must be offered and debated tonight and any votes ordered with respect to S. 1022 be postponed to occur beginning on 9:30 a.m. on Tuesday, July 29, with 2 minutes for debate equally divided before each vote, and following the disposition of amendments, S. 1022 be advanced to third reading and a passage vote occur, all without further action or debate.

I have more to this request, but I want to emphasize what that means. We will complete all of the amendments tonight. The votes on those amendments and final passage will occur next Tuesday beginning the 9:30.

I further ask that if the Senate has not received the House companion bill at the time of passage of S. 1022, the bill remain at the desk; and I further ask unanimous consent that when the Senate receives the House companion bill, the Senate proceed to its immediate consideration and all after the enacting clause be stricken and the text of S. 1022, as amended, be inserted, the House bill then be read a third time and passed and the Senate insist on its amendment, request a conference with the House and that the Chair be authorized to appoint conferees and that S. 1022 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, reserving the right to object, in the discussions with the chairman of the subcommittee, as I understand it, the amendment that is pending at the desk will be adopted this evening.

Mr. LOTT. That is my understanding Mr. President.

Mr. HOLLINGS. That is correct.

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

Mr. LOTT. I further ask that at 8:30 a.m. on Tuesday the Senate resume the State, Justice, Commerce appropriations bill and there be 30 minutes remaining, equally divided, for debate on each of the two amendments to be offered by Senator WELLSTONE.

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

Mr. LOTT. I further ask that it be in order, if necessary, for each leader to offer one relevant amendment on Tuesday prior to the scheduled 9:30 votes.

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

Mr. LOTT. With regard to the tuna-dolphin issue, I ask unanimous consent that, at 9:30 a.m. on Friday, July 25, the Senate resume the motion to proceed to S. 39, the tuna-dolphin bill, and there be 30 minutes equally divided between Senator MCCAIN, or his designee, and Senator BOXER. I further ask unanimous consent that following the use or yielding back of the time, the Senate proceed to the vote on the motion to invoke cloture on the motion to proceed to S. 39.

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

Mr. LOTT. Mr. President, I further ask that if an agreement can be reached with respect to S. 39—and it appears there may be—it be in order for the majority leader to vitiate the cloture vote, the Senate to then immediately proceed to S. 39, that the managers' amendment be in order, and the amendment and bill be limited to a total of 30 minutes equally divided, and following the disposition of the amendment the bill be advanced to third reading, and passage occur, all without further action or debate.

I think I should clarify this and put it in common language.

If an agreement is worked out, we will vitiate the cloture vote. I would like to modify that agreement to say that, if an agreement is reached, we will vitiate; then we will take that issue up next week with 30 minutes of debate and a vote next week, unless a voice vote would be agreed to for tomorrow or next week.

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

Mr. LOTT. With regard to Wednesday of next week, I ask unanimous consent that at 9:30 a.m., Wednesday, July 30, the Senate proceed to the consideration of Senate Resolution 98. I further ask unanimous consent that there be 2 hours of debate on the resolution equally divided between the chairman and the ranking member, or their designees, with the following amendments in order to this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I realize it gets a little confusing on how we are lining these up. But I think it is being helpful to all Senators. I think it is allowing us to complete the debate and get votes and move important legislation forward in the best way possible.

So the way we are getting it racked up, so to speak, I think is good for the Senate, and we are trying to do the right thing.

So I would like to modify that earlier request to this extent:

That we come in in the morning and go immediately at 9:30 to the global-warming bill. That bill is Senate Resolution 98. I ask consent that there be 2 hours of debate on the resolution equally divided between the chairman and the ranking member or their designees with the only amendments in order to be the following: Kerry amendment adding specific negotiating positions; Senator BYRD's amendment, relevant.

I further ask unanimous consent that following the disposition of the above-mentioned amendments and the expiration or yielding back of time for debate, the Senate proceed to a vote on the resolution with no intervening action or debate, and, if the resolution is agreed to, the preamble then be agreed to, which means that the final vote on global warming would occur around 11:30 tomorrow morning.

Mr. KERRY. Mr. President, reserving the right to object—I will not object—I simply ask the majority leader if he would modify that further, per our agreement, that they would be first-degree amendments with no second-degree amendments.

Mr. LOTT. Mr. President, I ask to further modify my unanimous-consent request.

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

Mr. LOTT. Then the modification of what we had earlier agreed to is that after that vote on Senate Resolution 98, we would then have the vote on the cloture motion on tuna-dolphin unless an agreement is worked out, at which point we would vitiate that cloture vote, and we would get a subsequent time agreement of 30 minutes and a voice vote, or a recorded vote, on that issue next week.

Mrs. BOXER. Reserving the right to object, and I shall not object—

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. The leader did not say exactly what time the cloture vote would take place.

Mr. LOTT. The cloture vote would then take place, after the global warming vote, I presume about 11:45, 11:50, something of that nature.

Mrs. BOXER. Could we say by 12 o'clock?

Mr. LOTT. It certainly would be by 12 o'clock.

Mrs. BOXER. That would be very helpful. One more point. If there should be a recorded vote, which many of us do not anticipate, on the dolphin-tuna compromise, if there is one, could we reserve just a couple of minutes on either side just to talk before that vote, on next week, just 2 minutes?

Mr. LOTT. Before the vote next week.

Mrs. BOXER. Yes.

Mr. LOTT. Sure. I would hate to enter into a time agreement on a specific time now but we would have a vote at an agreed to time and we would have some time to explain it. I think it is appropriate.

Mr. KERRY. It is my understanding the majority leader in the prior order already requested 30 minutes.

Mr. LOTT. I had indicated 30 minutes.

Mrs. BOXER. That is very acceptable. Thank you very much. And I wanted to thank the Senator from Arizona as well for helping resolve this procedure.

Mr. LOTT. Mr. President, I thank the Senators for their cooperation. Let us keep going then. I think we are making good progress.

I ask unanimous consent that at 5 o'clock on Monday, July 28, the Senate proceed to the consideration of the Transportation appropriations bill.

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

Mr. LOTT. For the information of all Senators, any votes ordered with respect to the Transportation appropriations bill will be postponed to occur on Wednesday morning immediately following the global warming resolution vote.

We have changed that now. The Transportation appropriations bill would occur on Wednesday morning.

Mr. FORD. I liked the first one better.

Mr. LOTT. Therefore, no votes will occur during the session on Monday, July 28.

Mr. President, I will yield the floor at this point and in a few minutes we will recap everything we agreed to in those unanimous-consent agreements so that they will be clear and understandable. We will do that before we go out tonight.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 989

Mr. SARBANES. Mr. President, is the Sarbanes amendment now the pending business?

The PRESIDING OFFICER. The Sarbanes amendment is now the pending business.

Mr. SARBANES. I ask unanimous consent that Senators MOYNIHAN, HATCH, JEFFORDS, KERRY, BIDEN, and LEAHY be added as cosponsors.

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

Mr. SARBANES. I hope we could move to adoption of the amendment.

Mr. GREGG. I hope the Senator would ask for adoption.

Mr. HOLLINGS. The question is on the adoption of the amendment.

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

The amendment (No. 989) was agreed to.

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

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

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 993

(Purpose: To make an Amendment Relating to the Health Insurance Benefits of Certain Public Safety Officers)

Mr. GRAHAM. Mr. President, at the completion of these brief remarks, I will send an amendment to the desk.

Mr. President, last year in consideration of this same appropriations bill, the Senate and the House adopted and the President signed into law what is known as the Alu-O'Hara bill. This is legislation which was the result of a tragic circumstance in which two law enforcement officers called to a hostage-taking scene were seriously

burned when the hostage taker set on fire the structure in which the hostages were being held. These two law enforcement officers were subsequently discharged from the law enforcement agency because of their severe injuries, and in the course of their discharge they lost their insurance coverage. So now they were two heroes out of work, lifetime injuries and without health insurance.

This Alu-O'Hara bill, which we adopted last year, provided that law enforcement agencies would provide to any public service officer ''who retires or is separated from service due to an injury suffered as the direct and proximate result of a personal injury sustained in line of duty while responding to an emergency situation or in hot pursuit with the same or better level of health insurance benefits that are otherwise paid by the entity to a public service officer at the time of retirement or separation.'' The enforcement for this was a reduction in that local law enforcement block grant award.

Mr. President, as I indicate, this has been the law since last year. It is currently in the House appropriations bill. Frankly, we are seeking an opportunity to put this into substantive law so we will not have to continue to rely upon the appropriations bill as the means of continuing this important protection for law enforcement officers which has strong support by all the major law enforcement agencies in America.

So I send this amendment to the desk and will ask my colleagues for its favorable adoption when we consider these matters on Tuesday.

The PRESIDING OFFICER. The clerk will report the amendment. The bill clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 993.

Mr. GRAHAM. 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 appropriate place in title I of the bill, insert the following:

SEC. 1. Of the amounts made available under this title under the heading ''OFFICE OF JUSTICE PROGRAMS'' under the subheading ''STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE'', not more than 90 percent of the amount otherwise to be awarded to an entity under the Local Law Enforcement Block Grant Program shall be made available to that entity, if it is made known to the Federal official having authority to obligate or expend such amounts that the entity employs a public safety officer (as that term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide an employee who is public safety officer and who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are otherwise paid by the entity to a public safety officer at the time of retirement or separation.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. We have no objection to this amendment and I ask unanimous consent the amendment be accepted.

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

The amendment (No. 993) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have been working on a sense-of-the-Senate resolution which I hoped to have the agreement of a number of Members of the Senate who have similar interests on the issue of the using universal service funds for the purpose of reaching a balanced budget in the budget reconciliation conference that is now going on. I know that sounds foreign as a subject to those who are not familiar with it, but I want to explain it a little bit and describe why this is important.

I have spoken to a number of Senators in the Chamber this evening—Senator STEVENS, the distinguished chairman of the Senate Appropriations Committee, Senator ROCKEFELLER, Senator HOLLINGS, Senator DASCHLE, Senator SNOWE, and others who are concerned about something that is happening in the reconciliation conference that could have a significant impact on the cost of telephone service in rural areas in this country in the years ahead. Here is what it is.

Our country has been fortunate to enjoy the benefits of a telecommunications system that says it does not matter where you live. If you live in an area where you have very high-cost service, there will be something called a universal service fund that helps drive down that high cost so that everyone in this country can afford telephone service, universally affordable telephone service. That is what the universal service fund is designed to do and has been designed to do for a long, long while. I come from a town of 300 people and telephone service there is affordable because the universal service fund drives down the rate of what would otherwise be high cost. The benefits of a national system is that every telephone in the country makes every other telephone more valuable. A telephone in my hometown in Regent, ND, makes Donald Trump's telephone more valuable in New York City because he can reach that telephone in Regent, ND. That is the whole concept of universally affordable telephone service, and it is why we have a universal service fund.

Now, having said that, the universal service fund was reconstructed some—but not dramatically—during the Telecommunications Act passed by Congress a year and a half ago. We now have a balanced budget proposal that is in conference between the House and the Senate and some are saying in this negotiation that they want to use the revenues from the universal service fund out in the year 2002 in order to help plug a leak on the budget side.

The fact is the universal service fund was never intended to be used for such a purpose. In fact, the universal service fund does not belong to the Government. It does not come into the Federal Treasury and is not expended by the Federal Government. It, therefore, ought not be a part of any discussion on budget negotiations, and yet it is.

This week I have spoken several times to the Office of Management and Budget, and they have explained to me in great detail with no clarity at all why it is now part of this process. I have spoken to people who claim to be experts on this, and none of them have the foggiest idea about what the proposal actually does.

Now, the reason I come to the floor to speak about it is this: We are nearing presumably the end of a conference, and if a conference report comes to the floor of the Senate using the universal service fund as part of a manipulated set of revenues in the year 2002, in order to reach some sort of budget figure, it will be an enormous disservice for the universal service fund. It will deny the purpose of the fund for which we in the Commerce Committee worked so hard to preserve in the Telecommunications Act of 1996. This provision in the reconciliation bill will set a precedent that will be a terrible precedent for the future. The result will be, I guarantee, higher phone bills in rural areas in this country in the years ahead.

I once stopped at a hotel in Minneapolis, MN, and there was a sign at the nearest parking space to the front door, and it said ''Manager's parking space.'' And then below it, it said, ''Don't even think about parking here.'' I don't expect anybody ever parked in that space besides the manager. Don't even think about parking here. I hope that the Senate will pass the sense-of-the-Senate resolution I have proposed that says to the reconciliation conference: ''do not even think about this.'' I say to the budget reconciliation conferees: ''do not try to bring to the floor of the Senate or the House a budget reconciliation conference report that manipulates and misuses the universal service fund.'' It is not right, it is not fair, and it will destroy the underpinnings of what we have done in telecommunications policy to provide affordable telephone service across this country for all Americans. Yes, especially, most especially Americans who live in the rural areas of this country.

I have enormous respect for those people who put these budgets together. It is not easy. But this instance of using the universal service fund as is

now being proposed is, I am afraid, budget juggling at its worst. Juggling I suppose at a carnival or in the backyard is entertaining. Juggling in this circumstance using universal fund support to manipulate the numbers in 2002 is not entertaining to me. It is fundamentally wrong. This money does not belong to the Federal Government. It does not come to the Federal Treasury, and it is not spent by the Federal Government and has no place and no business in any reconciliation conference report.

I was flabbergasted to learn that it was there and it is being discussed. I have spoken to the Director of the Office of Management and Budget about this several times this week, spoken to others who are involved with it. And I must tell you I think that the Congressional Budget Office, the Office of Management and Budget, and any member of the conference that espouses this is making a terrible, terrible mistake. I hope that the Senate will pass the sense-of-the-Senate resolution I have proposed and that we can garner the support of the position I now espouse to say as that parking sign, ''don't even think about this.'' It is wrong, and it will disserve the interests that we have fought so hard to preserve affordable telephone service all across this country.

The Senator from South Carolina has spent a great deal of time on this issue, as has the Senator from Alaska, the Senator from West Virginia, the Senator from Maine, and so many others. As I said, the wording is not yet agreed to on the sense-of-the-Senate resolution. I hope it will be very shortly, and when it is I hope we will pass it and send a message that any conference report that comes back here ought not use universal service support funds because they are not our funds to use.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 994

(Purpose: To amend section 3006A of title 18, United States Code, to provide for the public disclosure of court appointed attorneys' fees upon approval of such fees by the court)

Mr. DOMENICI. Mr. President, I have an amendment and I understand it is going to be accepted. I will let the managers do that in their wrap-up if they would like unless the Senator has indicated that it is all right.

Mr. President, I ask, has Senator HOLLINGS cleared it?

Mr. HOLLINGS. It has been cleared.

Mr. DOMENICI. I thank the Senator very much.

I send an amendment to the desk, and since it is acceptable on both sides I ask for its immediate consideration.

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 994.

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:

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

SEC. 1. PUBLIC DISCLOSURE OF COURT APPOINTED ATTORNEYS' FEES.

Section 3006A(d) of title 18, United States Code, is amended by striking paragraph (4) and inserting the following:

''(4) DISCLOSURE OF FEES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (E), the amounts paid under this subsection for services in any case shall be made available to the public by the court upon the court's approval of the payment.

''(B) PRE-TRIAL OR TRIAL IN PROGRESS.—If a trial is in pre-trial status or still in progress and after considering the defendant's interests as set forth in subparagraph (D), the court shall—

''(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

''(ii) make public only the amounts approved for payment to defense counsel by dividing those amounts into the following categories:

''(I) Arraignment and or plea.

''(II) Bail and detention hearings.

''(III) Motions.

''(IV) Hearings.

''(V) Interviews and conferences.

''(VI) Obtaining and reviewing records.

''(VII) Legal research and brief writing.

''(VIII) Travel time.

''(IX) Investigative work.

''(X) Experts.

''(XI) Trial and appeals.

''(XII) Other.

''(C) TRIAL COMPLETED.—

''(i) IN GENERAL.—If a request for payment is not submitted until after the completion of the trial and subject to consideration of the defendant's interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

''(ii) PROTECTION OF THE RIGHTS OF THE DEFENDANT.—If the court determines that defendant's interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

''(D) CONSIDERATIONS.—The interests referred to in subparagraphs (B) and (C) are—

''(i) to protect any person's 5th amendment right against self-incrimination;

''(ii) to protect the defendant's 6th amendment rights to effective assistance of counsel;

''(iii) the defendant's attorney-client privilege;

''(iv) the work product privilege of the defendant's counsel;

''(v) the safety of any person; and

''(vi) any other interest that justice may require.

''(E) NOTICE.—The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant's interests set forth in subparagraph (D) will be compromised.''.

Mr. DOMENICI. Mr. President, I am not sure, if I were to ask every Senator to take a guess, anyone would come anywhere close to answering this question correctly.

I ask, how many dollars do you think we spent last year paying for defense lawyers for criminals in the Federal court who claim they don't have enough money to defend themselves?

We have an obligation. The court has interpreted our Constitution to say they must have counsel, so I am not here complaining. But I don't think anyone—I see my friend from Iowa looking at me—would guess $308 million, and growing tremendously, taxpayers' dollars to defend criminals in the Federal court system.

I am not asking in this amendment that we review that process, although I kind of cry out to any committee that has jurisdiction and ask them to take a look. All I am doing in this amendment is changing the law slightly with reference to letting the taxpayer know how much we are paying criminal defense lawyers. All this amendment does is say when a payment is made to a criminal defense lawyer, a form has to be filed that indicates that payment. There is no violation of the sixth amendment because there are no details. We are not going to, in this statement, reveal the secret strategy of the defense counsel or their latest deposition theory. We are just saying, reveal the dollar amount so the American people know, through public sources, how much we are paying.

Frankly, if I had a little more time, I would state some of the fees that we finally have ascertained, and I think many would say, ''Are you kidding?'' I will just give you three that we know of.

Mr. President, what would you say if I told you that from the beginning of fiscal year 1996 through January 1997, $472,841 was paid to a lawyer to defend a person accused of a crime so heinous that the United States Attorney in the Northern District of New York is pursuing the death penalty? Who paid for this lawyer—the American taxpayer.

What would you say if I told you that $470,968 was paid to a lawyer to defend a person accused of a crime so reprehensible that, there too, the United States Attorney in the Southern District of Florida is also pursuing the death penalty? Who paid for this lawyer—the American taxpayer.

What would you say if I told you that during the same period, for the same purpose, $443,683 was paid to another attorney to defend a person accused of a crime so villainous that the United States Attorney in the Northern District of New York is pursuing the death penalty? Who paid for this lawyer—the American taxpayer.

Now, Mr. President, what would you say if I told you that some of these cases have been ongoing for three or more years and that total fees in some

instances will be more than $1 million in an individual case? That's $1 million to pay criminal lawyers to defend people accused of the most vicious types of murders often which are of the greatest interest to the communities in which they were committed.

At minimum, Mr. President, this Senator would say that we are spending a great deal of money on criminal defense lawyers and the American taxpayer ought to have timely access to the information that will tell them who is spending their money, and how it is being spent. That is why today I am introducing the ''Disclosure of Court Appointed Attorney's Fees and Taxpayer Right to Know Act of 1997''.

Under current law, the maximum amount payable for representation before the United States Magistrate or the District Court, or both, is limited to $3,500 for each lawyer in a case in which one or more felonies are charged and $125 per hour per lawyer in death penalty cases. Many Senators might ask, if that is so, why are these exorbitant amounts being paid in the particular cases you mention? I say to my colleagues the reason this happens is because under current law the maximum amounts established by statute may be waived whenever the judge certifies that the amount of the excess payment is necessary to provide ''fair compensation'' and the payment is approved by the Chief Judge on the circuit. In addition, whatever is considered ''fair compensation'' at the $125 per hour per lawyer rate may also be approved at the Judge's discretion.

Mr. President, the American taxpayer has a legitimate interest in knowing what is being provided as ''fair compensation'' to defend individuals charged with these dastardly crimes in our federal court system. Especially when certain persons the American taxpayer is paying for mock the American Justice System. A recent Nightline episode reported that one of the people the American taxpayer is shelling out their hard earned money to defend urinated in open court, in front of the Judge, to demonstrate his feelings about the judge and the American judicial system.

I want to be very clear about what exactly my bill would accomplish. The question of whether these enormous fees should be paid for these criminal lawyers is not, I repeat, is not a focus of my bill. In keeping with my strongly held belief that the American taxpayer has a legitimate interest in having timely access to this information, my bill simply requires that at the time the court approves the payments for these services, that the payments be publicly disclosed. Many Senators are probably saying right now that this sounds like a very reasonable request, and I think it is, but the problem is that often times these payments are not disclosed until long after the trial has been completed, and in some cases they may not be disclosed at all if the remains are sealed by the Judge. How much criminal defense lawyers are being paid should not be a secret. There is a way in which we can protect the alleged criminal's sixth amendment rights and still honor the American taxpayer's right to know. Mr. President, that is what my bill does.

Current law basically leaves the question of when and whether court appointed attorneys' fees should be disclosed at the discretion of the Judge in which the particular case is being tried. My bill would take some of that discretion away and require that disclosure occur once the payment has been approved.

My bill continues to protect the defendant's sixth amendment right to effective assistance of counsel, the defendant's attorney client privilege, the work product immunity of defendant's counsel, the safety of any witness, and any other interest that justice may require by providing notice to defense counsel that this information will be released, and allowing defense counsel, or the court on its own, to redact any information contained on the payment voucher that might compromise any of the aforementioned interests. That means that the criminal lawyer can ask the Judge to take his big black marker and black-out any information that might compromise these precious Sixth Amendment rights, or the Judge can make this decision on his own. In any case, the Judge will let the criminal lawyer know that this information will be released and the criminal lawyer will have the opportunity to request the Judge black-out any compromising information from the payment voucher.

How would this occur? Under current law, criminal lawyers must fill out Criminal Justice Act payment vouchers in order to receive payment for services rendered. Mr. President, I have brought two charts to the floor to provide Senators with an example of what these payment vouchers look like so that they can get an understanding of what my bill would accomplish. These two payment vouchers are the standard vouchers used in the typical felony and death penalty cases prosecuted in the federal district courts. As you can see Mr. President, the information on these payment vouchers describes in barebones fashion the nature of the work performed and the amount that is paid for each category of service.

My bill says that once the Judge approves these payment vouchers that they be publicly disclosed. That means that anyone can walk down to the federal district court where the case is being tried and ask the clerk of the court for copies of the relevant CJA payment vouchers. It's that simple. Nothing more. Nothing less.

Before the court releases this information it will provide notice to defense counsel that the information will be released, and either the criminal lawyer, or the Judge on his/her own, may black-out any of the barebones information on the payment voucher that might compromise the alleged criminal's precious sixth amendment rights.

Mr. President, I believe that my bill is a modest step toward assuring that the American taxpayer have timely access to this information. In addition to these CJA payment vouchers, criminal lawyers must also supply the court with detailed time sheets that recount with extreme particularity the nature of the work performed. These detailed time sheets break down the work performed by the criminal lawyer to the minute. They name each and every person that was interviewed, each and every phone call that was made, the subjects that were discussed and the days and the times they took place. They go into intimate detail about what was done to prepare briefs, conduct investigations, and prepare for trial.

Mr. President, clearly if this information were subject to public disclosure the alleged criminal's sixth amendment rights might be compromised. My bill does not seek to make this sensitive information subject to public disclosure, but rather continues to leave it to the Judge to determine if and when it should be released. In this way, my bill recognizes and preserves the delicate balance between the American taxpayers' right to know how their money is being spent, and the alleged criminal's right to a fair trial.

I believe we should take every reasonable step to protect any disclosure that might compromise the alleged criminal's sixth amendment rights. My bill does this by providing notice to defense counsel of the release of the information, and providing the Judge with the authority to black-out any of the barebones information contained on the payment voucher if it might compromise any of the aforementioned interests. I believe it is reasonable and fair, and I hope I will have my colleagues' support.

I am very pleased the Senate will accept this. I hope the House does. I believe they will. Because I think the public has a right to know. As a matter of fact, I think we have a right to know, case by case, payment by payment, how much is being paid by the taxpayer to defend criminals in the Federal court.

I yield the floor.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 994) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 995

(Purpose: To Provide for the Payment of Special Masters, and for Other Purposes)

Mr. GREGG. Mr. President, on behalf of Senator KYL, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. KYL, proposes an amendment numbered 995.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

''(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.—''; and

(2) in paragraph (4)—

(A) by inserting ''(A)'' after ''(4)'';

(B) in subparagraph (A), as so designated, by adding at the end the following: ''In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997' (110 Stat. 3009–201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995.''; and

(C) by adding at the end the following:

''(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321–165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.''.

Mr. GREGG. I move to set aside the amendment by Senator KYL.

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

AMENDMENT NO. 996

(Purpose: To require the Attorney General to submit a report on the feasibility of requiring convicted sex offenders to submit DNA samples for law enforcement purposes)

Mr. GREGG. 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 New Hampshire [Mr. GREGG], for Mr. COVERDELL, proposes an amendment numbered 996.

Mr. GREGG. 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 appropriate place in title I of the bill, insert the following:

SEC. . REPORT ON COLLECTING DNA SAMPLES FROM SEX OFFENDERS.

(a) DEFINITIONS.—In this section—

(1) the terms ''criminal offense against a victim who is a minor'', ''sexually violent offense'', and ''sexually violent predator'' have the meanings given those terms in section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)));

(2) the term ''DNA'' means deoxyribonucleic acid; and

(3) the term ''sex offender'' means an individual who—

(A) has been convicted in Federal court of—

(i) a criminal offense against a victim who is a minor; or

(ii) a sexually violent offense; or

(B) is a sexually violent predator.

(b) REPORT.—From amounts made available to the Department of Justice under this title, not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include a plan for the implementation of a requirement that, prior to the release (including probation, parole, or any other supervised release) of any sex offender from Federal custody following a conviction for a criminal offense against a victim who is a minor or a sexually violent offense, the sex offender shall provide a DNA sample to the appropriate law enforcement agency for inclusion in a national law enforcement DNA database.

(c) PLAN REQUIREMENTS.—The plan submitted under subsection (b) shall include recommendations concerning—

(1) a system for—

(A) the collection of blood and saliva specimens from any sex offender;

(B) the analysis of the collected blood and saliva specimens for DNA and other genetic typing analysis; and

(C) making the DNA and other genetic typing information available for law enforcement purposes only;

(2) guidelines for coordination with existing Federal and State DNA and genetic typing information databases and for Federal cooperation with State and local law in sharing this information;

(3) addressing constitutional, privacy, and related concerns in connection with mandatory submission of DNA samples; and

(4) procedures and penalties for the prevention of improper disclosure or dissemination of DNA or other genetic typing information.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 997

(Purpose: To Express the Sense of the Senate That the Federal Government Should not Withhold Universal Service Support Payments)

Mr. HOLLINGS. On behalf of Senator DORGAN and others, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. DORGAN, for himself, Mr. ROCKEFELLER, Mr. HOLLINGS and Mr. DASCHLE, proposes an amendment numbered 997.

Mr. HOLLINGS. 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 appropriate place, insert the following:

SEC. . SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD NOT MANIPULATE UNIVERSAL SERVICE SUPPORT PAYMENTS TO BALANCE THE FEDERAL BUDGET.

Whereas the Congress reaffirmed the importance of universal service support for telecommunications services by passing the Telecommunications Act of 1996;

Whereas the Telecommunications Act of 1996 required the Federal Communications Commission to preserve and advance universal service based on the following principles:

(A) Quality services should be available at just, reasonable, and affordable rates;

(B) Access to advanced telecommunications and information services should be provided in all regions of the Nation;

(C) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services;

(D) All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service;

(E) There should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service; and

(F) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services;

Whereas Federal and State universal contributions are administered by an independent, non-Federal entity and are not deposited into the Federal Treasury and therefore not available for Federal appropriations;

Whereas the Conference Committee on H.R. 2015, the Budget Reconciliation Bill, is considering proposals that would withhold Federal and State universal service funds in the year 2002; and

Whereas the withholding of billions of dollars of universal service support payments will mean significant rate increases in rural and high cost areas and will deny qualifying schools, libraries, and rural health facilities discounts directed under the Telecommunications Act of 1996:

Now, therefore, be it

Resolved, That it is the sense of the Senate that the Conference Committee on H.R. 2015 should not manipulate, modify, or impair universal service support as a means to achieve a balanced Federal budget or achieve Federal budget savings.

AMENDMENT NO. 998

Mr. HOLLINGS. Mr. President, I also, on behalf of the distinguished Senator from Delaware, Senator BIDEN, send an amendment to the desk and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. BIDEN, proposes an amendment numbered 998.

Mr. HOLLINGS. 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 appropriate place, insert the following:

SEC. . EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

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

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

(3) by adding at the end the following:

''(7) for fiscal year 2001, $4,355,000,000; and

''(8) for fiscal year 2002, $4,455,000,000.''.

Beginning on the date of enactment of this legislation, the non-defense discretionary spending limits contained in Section 201 of H.Con Res. (105th Congress) are reduced as follows:

for fiscal year 2001, $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

for fiscal year 2002, $4,455,000,000 in new budget authority and $4,485,000,000 in outlays.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, the junior Senator from West Virginia wishes to continue, a little bit, the comments that were made by the Senator from North Dakota [Mr. DORGAN]. Needless to say, the Senator from West Virginia not only wholly agrees with him, but would carry the argument even further.

The concept of universal service is literally sacred in our country. For the majority of the people of our land, which is rural land, it is the only lifeline they have potentially to the present day and to their future day. They are able to afford certain kinds of rural rates. But if people start to take the universal service fund and use it for any other purpose other than what it was originally intended, the whole system of equality between rural States and urban States, of user States and using States, disappears. The concept of universal service is ended.

I would like to suggest that this is not a thought which is held by myself alone. I ask at this moment to have printed in the RECORD a letter from the U.S. Telephone Association and a letter from the Rural Telephone Coalition on the subject that the Senator from North Dakota and I were discussing.

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

UNITED STATES
TELEPHONE ASSOCIATION,
Washington, DC, July 9, 1997.

Hon. BYRON L. DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: The United States Telephone Association (''USTA''), representing more than 1,200 companies, is dismayed that Congress has chosen universal telephone service as a vehicle to balance the budget by the year 2002. While USTA recognizes the endeavors of key leaders in rejecting spectrum fees and other inappropriate budget proposals, exploiting the universal telephone service fund to balance the budget is not only bad precedent, it is bad telecommunications policy. Accordingly, USTA strenuously urges you to oppose this proposal in conference.

In its effort to meet the budget accord, the U.S. House of Representatives adopted a reconciliation package that maneuvers universal telephone service support moneys to satisfy current budgetary objectives. To make up for a $2 billion budget shortfall, the House's proposal borrows $2 billion in FY 2001 while artificially reducing universal telephone service support by this same amount in FY 2002. This proposal needlessly jeopardizes a privately run support system that continues to work without federal monetary aid. Moreover, such a ''scoring'' device sets a dangerous precedent that could damage this nation's universal telephone service policy necessary to maintain nationwide, affordable telecommunications service.

USTA has opposed the Office of Management and Budget and the Congressional Budget Office for more than two years over their claims of authority to reflect universal telephone service transactions on the federal budget. The Telecommunications Act clearly establishes the manner in which universal telephone service funds are collected and disbursed. Pursuant to the Act, universal telephone service moneys logically should not be classified as either federal receipts or federal disbursements and thus should not be associated with the federal budget, as the Administration has insisted and Congress has allowed.

USTA appreciates your continued support regarding the elimination of such budget proposals as the imposition of spectrum fees. Similarly, USTA strongly urges you to reject any proposals that would seek to balance the budget at the expense of universal telephone service. We hope we can count on you to help keep such initiatives out of the final conferenced agreement.

Sincerely,

ROY NEEL,
President and CEO.

NRTA—NTCA—OPASTCO,
RURAL TELEPHONE COALITION,
Washington, DC, July 10, 1997.

DEAR SENATOR/REPRESENTATIVE: The undersigned collectively representing approximately 850 of the nation's small rural incumbent local exchange carriers, have been closely following the struggle of the Congress to develop a reconciliation package that meets the targets assigned by the recent budget accord. Although we understand the difficult nature of this task, we applaud the efforts of key leaders who have prevented the adoption of many of the more unrealistic and unjustified concepts for meeting the agreement's targets. These concepts include auctioning electromagnetic radio spectrum at all costs, imposing new electromagnetic radio spectrum fees and auctioning toll-free ''vanity'' numbers.

However, we are alarmed that the U.S. House of Representatives, in its last-minute effort to achieve the budget agreement's targets, adopted a reconciliation package containing language that manipulates universal service support moneys to do so. Universal telecommunications service is a national policy objective, but the moneys that are involved in effectuating this policy are strictly private, not governmental as the House initiative attempts to suggest. The House provision seeks to create the illusion that the U.S. government should somehow have access to these private universal service moneys for the sole purpose of balancing the budget.

Specifically, in attempting to make up for a $2 billion budget shortfall, the U.S. House of Representatives has adopted a reconciliation package that uses universal service support moneys to meet its present budget objectives and even seems to suggest that a totally unnecessary appropriation is involved. This proposal borrows $2 billion in fiscal year (FY) 2001 while artificially reducing universal service support by this same amount in FY 2002—budget gimmickry Congress should reject. This proposal unnecessarily jeopardizes a privately run support system that continues to work without federal monetary aid. Such a misleading ''scoring'' device sets a dangerous precedent that could permanently damage the nation's statutory universal service policy and budget process.

Our organizations have opposed the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) for more than two years over their claims of authority to reflect universal service transactions on the federal budget. Universal service flow transactions represent the collection and distribution of private moneys, for the sole purpose of recovering private investment and expenses necessary to maintain nationwide universal telecommunications service. Therefore, universal service moneys logically cannot be classified as either federal receipts or federal disbursements and thus legally should not be associated with the federal budget, as the administration has insisted and the Congress has allowed.

We are pleased that Congress rejected spectrum fees and other inappropriate proposals that had the sole intent of meeting budgetary targets. However, manipulation of universal service moneys to look like U.S. government resources is not only bad precedent, but also had telecommunications policy. Any measure embracing such a proposal should be strenuously opposed. We hope we can count on your support to keep such initiatives out of the final conferenced reconciliation package. Please feel free to contact any one of our organizations if you have questions about this critical matter.

Sincerely,

JOHN F. O'NEAL,
General Counsel, National Rural Telecom Association.

MICHAEL E. BRUNNER,
Executive Vice President and Chief Executive Officer, National Telephone Cooperative Association.

JOHN N. ROSE,
President, Organization for the Promotion and Advancement of Small Telecommunications Companies.

Mr. ROCKEFELLER. There is another aspect which worries me greatly. I have heard so many people talk about the importance of technology and the importance of understanding that technology is our future and the fact that so many of the people in our rural areas and in our urban areas are not hooked up to the Internet and hooked up to all of the advantages that technology and the computer brings us. It was with that in mind that during the consideration of the Telecommunications Act, a number of Senators, led

by Senator SNOWE of Maine, put forward an amendment which would allow, for the very first time, money to be used with the full consent of the carriers, to be used to wire up 116,000 schools in this country, endless numbers of public libraries, enormous numbers of rural health clinics so that they could develop in the practice of telemedicine and other new technologies that are now and will be available.

If what is being contemplated by those who are working on the reconciliation process is the use of universal service money to plug up a potential shortfall in the spectrum auction, the entire Snowe amendment, which relates to whether or not we are going to have a first- or second-class citizenry in this country —first-class being those who have the money to have computers in their schools and at home and then the second class, and that being the majority, being those who do not—all of that will go down.

I make the further point that this is not the Government's money. Some may try to argue that it is, but it is money that is paid into a special fund and it is money which is being administered by something called NECA, which is the ''national exchange cable association''—I believe that is what it stands for. They are private. They are private. They are a private entity administering this fund.

This has been through a Senate process where it was agreed to in a bipartisan debate, 98 to 1. It has been through a joint board, FCC process, that is State and FCC together, voting 8 to nothing, and through a further final FCC process, 4 to nothing—unanimous, virtually the entire way through.

If the budget negotiators use this universal service fund for any purpose other than for the purposes that the universal service fund is meant to be used for, I think it begins a tremendous downfall in not only our future in terms of rural rates, but also in terms of learning and technology. The Vice President of the United States, our former colleague, Albert Gore, said that in his view the Snowe amendment, relating to 116,000 schools, more public libraries and more rural health clinics, was the biggest and most important thing that had happened in education policy in the last 30 years. He may have said, in this century.

In any event, all of that is in jeopardy, and the resolution, which is being circulated, I hope will be carried by staff members and others who hear the voice of the Senator from North Dakota and myself, to their Senators to know that something called universal service is in dire jeopardy as of this moment, because the tampering with that universal service is now in the bill that may come before us. There has to be a change made. Change is hard to come by. In other words, we really are at the ramparts on this issue.

I thank the Presiding Officer and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, NECA is the National Exchange Carriers Association. Mr. President, this association was formed at the breakup of AT&T back in 1984, and it is a private entity, whereby the different carriers, through their trade associations, self-impose, in an intermittent fashion, the amounts due and owing in order to constitute what we call the universal service fund. It is a private entity. There is no Federal law that says you can be a member or shall be a member or you cannot be a member. It is not under the Federal law; it is under this particular entity that it was associated with and together at that particular time of the breakup.

It depends on the volume of business, obviously. If you get a greater volume and more burdens and so forth—for high-cost areas is really what it was for, initially. It is now being extended to rural, being extended for the schools and the hospitals. But the high-cost areas are being taken care of under this universal service fund.

Mr. President, what we are seeing here—and I hope the conferees on reconciliation get the message—this is the epitome of the national loot. In 1994, this Congress passed, President Clinton signed into law the Pension Reform Act. Under that Pension Reform Act, it provided certain penalties, whereby you can't loot the pension funds of the particular corporate America. They wanted to make sure that a person in this particular corporation who had worked over the years and everything else, didn't have a newcomer in a merger or buyout or whatever it is, abscond with all the moneys and all of a sudden your pension was gone.

Now, it so happens that in the news here, about 6 weeks ago, now 8 weeks ago, that a famous American, Denny McLain, the all-time all-star pitcher, I think it was, for the Detroit Tigers, became a president of the corporation and he used the corporate pension fund in violation of law to pay the company's debt, and he was promptly sentenced to an 8-year jail sentence. We do it at the Federal level and get the good Government award.

We loot the Social Security pension fund, the Medicare trust fund, the civil service pension trust fund, the military retirees' trust fund. They even had in the reconciliation bill —and I put in an amendment—the looting of the airport and airways improvement fund, whereby the moneys that are supposed to go to the improvement of the airways instead is going to the deficit.

Now the cabal, the conspiracy that they call a conference committee has the unmitigated gall to provide as follows, and I read:

> The Senate recedes to the House with modifications.
>
> 3006 of this title provides that expenditures from the universal service fund under part 54 of the Commission's rules for the fiscal year 2002 shall not exceed the amount of revenue to be collected for that fiscal year, less [blank] billion dollars.
>
> Section 3006(B) further provides that any outlays not made from the universal service fund in fiscal year 2002 under subsection (A) are immediately available commencing October 1, 2002.
>
> The conferees note that this subsection shall not be construed to require the amount of revenues collected under part 54 of the Commission's rules to be increased.

What in the world, how else is it going to be done? If you take the amount of the funds necessary to keep universal service constant, less X billion dollars or million dollars, whatever, that they want to fit in here for a budget fix, then the companies and the associations through their companies that make the contributions are going to have to immediately either cut out the service under the service fund and the rules and regulations of the entity that controls it or raise the rates, and then the politicians will all run around saying, ''I'm against taxes, I'm against rate increases,'' when they are causing it in a shameful, shameless way in this particular provision and not even put in the amount. They have a blank here, and they are going to fill in the amount, and it is another smoke and another mirror and another loot.

Oh, yes, wonderful. We pass overwhelmingly the Pension Reform Act to make sure that it is a trust and it can be depended upon, and here, in the very same Congress, we come around and we loot all the particular funds, and now we find a private one. Maybe they will get the Brownback fund before they get through, if they can find it, and add that to it, too. They can get anybody's fund and put something down in black and white and they say, ''Oh, what good boys we are. We put in our thumb and pulled out a plum, and we balance the budget.''

Turn to page 4 on the conference report on a so-called balance budget agreement and report for the 5-year period terminating fiscal year 2002, and on page 4, line 15, the word is not ''balance,'' the word is ''deficit,'' $173.9 billion deficit.

Yet, the print media—I am glad this is on C-SPAN so the people within the sound of my voice can at least hear it, because they are not going to print it—the media goes along with the loot, and then they wonder why the budget is not balanced. If we only level with the American people, they would understand you can't cut taxes without increasing taxes.

We have increased the debt with that particular shenanigan to the tune now of $5.4 trillion with interest costs on the national debt of $1 billion a day. So when you cut down more revenues to pay, you increase the debt, you increase the interest costs, so you get reelected next year, because I stood for tax cuts, but they won't tell them that with the child tax cut that they have actually increased the tax for the child. Now that is at least in the Congressional RECORD in black and white.

I yield the floor.

Mr. DOMENICI. Mr. President, I rise in support of S. 1022, the Commerce, Justice, State, and the Judiciary appropriations bill for fiscal year 1998. The Senate bill provides $31.6 billion in budget authority and $21.2 billion in new outlays to operate the programs of the Department of Commerce, Department of Justice, Department of State, the Judiciary and Related Agencies for fiscal year 1998. When outlays from prior-year budget authority and other completed actions are taken into account, the bill totals $31.6 billion in budget authority and $29.4 billion in outlays for fiscal year 1998. The subcommittee is within its revised section 602(b) allocation for budget authority and outlays.

Mr. President, I commend the distinguished subcommittee chairman, Senator GREGG, for bringing this bill to the floor. It is not easy to balance the competing program requirements that are funded in this bill. I thank the chairman for the consideration he gave to issues I brought before the subcommittee, and his extra effort to address the items in the bipartisan balanced budget agreement. It has been a pleasure to serve on the subcommittee.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be printed in the RECORD at this point.

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

S. 1022, COMMERCE-JUSTICE APPROPRIATIONS, 1998; SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 1998, in millions of dollars]

	Defense	Non-defense	Crime	Mandatory	Total
Senate-Reported bill:					
Budget authority	275	25,587	5,225	522	31,609
Outlays	322	25,188	3,381	532	29,423
Senate 602(b) allocation:					
Budget authority	297	25,588	5,225	522	31,632
Outlays	322	25,479	3,401	532	29,734
President's request:					
Budget authority	257	26,114	5,238	522	32,131
Outlays	286	25,907	3,423	532	30,148
House-passed bill:					
Budget authority.					
Outlays.					
SENATE-REPORTED BILL COMPARED TO:					
Senate 602(b) allocation:					
Budget authority	(22)	(1)	.....	.....	(23)
Outlays	.....	(291)	(20)	.....	(311)
President's request:					
Budget authority	18	(527)	(13)	.....	(522)
Outlays	36	(719)	(42)	.....	(725)
House-passed bill:					
Budget authority	275	25,587	5,225	522	31,334
Outlays	322	25,188	3,381	532	29,423

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

CARBON MONOXIDE VIOLATIONS

Mr. MURKOWSKI. Mr. President, as we consider funding for the Environmental Protection Agency, I would like to raise the issue of Clean Air Act carbon monoxide violations in my home town of Fairbanks with the chairman of the Environment and Public Works Committee, Senator CHAFEE.

As the chairman knows, Fairbanks has one of the highest rates of temperature inversions in the world. When such inversions occur, pollutants from any source in the area are trapped at extremely low altitudes. For example, it is not uncommon to see the smoke from house chimneys trapped directly above a house rather than disbursed in the atmosphere as in other cities nationwide.

While I would have preferred that the EPA not go forward with a bump-up on the rating of Fairbanks' air from moderate to serious, I recognize that this bill is not the place to accomplish that goal. I would like to point out that in the past 20 years, Fairbanks has reduced its violation days from 160 to as low as 1 last year. It is these last violations that are causing difficulties for communities nationwide. However, Fairbanks may never be able to prevent several violations per year due to its unique and extreme cold weather. It is my hope that the EPA would work with Fairbanks to develop strategies to mitigate the pollution that is so severely magnified by the extreme cold weather of my hometown.

Mr. STEVENS. I want to reiterate the concerns expressed by my colleague, Senator MURKOWSKI. The reality may be that no matter what Fairbanks does, it may never be able to comply with EPA standards because of its geographic location.

Mr. CHAFEE. I thank the Senators from Alaska for their remarks about carbon monoxide violations in Fairbanks. Their hometown has dramatically reduced the number of exceedences over the past 20 years and should be recognized for this success. It is my hope that the EPA will continue to work with Fairbanks to devise pollution reduction strategies that recognize the unique conditions that exist in Fairbanks.

Mr. MURKOWSKI: I thank my friend from Rhode Island.

OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. CHAFEE. Mr. President, I want to take a moment to discuss one provision in the legislation now before the Senate. Under the heading of Related Agencies, the Commerce-State-Justice appropriations bill provides funding for the Office of the U.S. Trade Representative.

As my colleagues know, our Nation's Special Trade Representative, backed by the team of staff at USTR, is responsible for negotiating and administering trade agreements and coordinating overall trade policy for the United States. Those are significant responsibilities, and they are critical to the economic interests of American firms, workers, consumers, and families.

For an agency with such significant duties, USTR does not consume much in the way of taxpayer monies. Annual funding for USTR has hovered at just over $20 million for the past 5 years. In terms of the Federal budget—or for that matter of the several other agencies funded by this bill—$20 million is a mere pittance.

I might say that for what we get in return, the funds spent on USTR represent quite a bargain. Thanks to USTR, we have in place trade agreements and policies that allow our companies to compete successfully worldwide. And where barriers remain, the USTR team works continuously to make further progress. Their work over the years has affected billions of dollars in U.S. trade and contributes enormously to the health of the overall U.S. economy.

Now, USTR does not require much in funding because for the most part, appropriations are spent on two items: salaries and travel. Those basic necessities—the salaries that pay the staff, and the travel that is required for the various ongoing negotiations with our trading partners around the world—make up the bulk of USTR's financial needs. There is not much fat there. Therefore, every dime they get is critical.

I want to commend the chairman of the Commerce-State-Justice Subcommittee for allocating the full budget request for USTR for fiscal year 1998. Under his bill, the Office of the USTR will receive $22,092,000, exactly what the administration sought. I want to thank him for that.

Let me raise one concern, however, that I know is shared by the leadership and most members of the Senate Finance Committee. Since the January 1995 implementation of the Uruguay round agreements and the WTO, USTR has taken on an enormous new docket of cases in which the United States is involved, and all of these cases now come with strict deadlines. As of July 1, there were pending some 47 WTO or NAFTA cases in which the United States is a plaintiff, a defendant, or otherwise a participant. That is quite a workload. Yet despite the increase, USTR has not increased its career legal staff. The number of lawyers and litigators now on staff is virtually the same as in the pre-WTO days. USTR has just 12 lawyers in Washington, with 2 more in Geneva, and only 2 of them are able to devote themselves fulltime to the international litigation. That dearth of staff makes no sense—and only hurts our efforts to win our cases.

I believe USTR must have the resources and personnel that it needs to fulfill its responsibilities. While I am delighted that USTR received its full budget request, I must say that the budget request amount is simply not realistic for an agency facing these new assignments. Even a modest increase of, say, $1 million—which again, in terms of the federal budget is not even visible—would make a significant and positive difference to the ability of USTR to carry out its work. And that in turn would only benefit US workers and families, and the overall US economy.

I want to urge USTR to press the Office of Management and Budget to recognize their new workload. I have mentioned this repeatedly to Ambassador Barshefsky and I hope she will act on it. And I want to exhort OMB in the strongest terms possible to adjust next year's budget request accordingly for

USTR. I am confident that such an adjustment would be met with favor by the members of the authorizing committee, namely the Senate Finance Committee.

If OMB fails to act, then it may fall to Congress to do the right thing, and make the small but necessary increased investment in this agency. Indeed, I seriously considered taking such a step during today's debate. But for now I will wait. Thanks to the good work of the chairman, we do have in this bill $22 million in full funding for USTR, and I intend to do what I can to make sure that that full $22 million becomes law. However, I call upon the administration in no uncertain terms to ensure that in the budget submitted next year, USTR is provided the resources they need.

Mr. MCCAIN. Mr. President, I am happy to say that, after reviewing the bill before the Senate, I find relatively few examples of pork-barrel spending. I stress, relatively few, since I can still find a few objectionable provisions in the bill and many in the report. But there are far fewer problems with this bill than the last few appropriations bills we have passed in the Senate.

This bill contains the usual earmarks for centers of excellence. In particular, bill earmarks $22 million for the East-West Center in Hawaii and $3 million for the North/South Center in Florida.

These amounts represent a combined increase of $16.5 million above the administration's request.

Last week, I spoke about the problem of Congress establishing, at taxpayer expense, centers for the study of virtually every subject, irrespective of the availability of research and analysis on those issues already available from existing universities and private research institutions.

This enormous increase in funding for the East-West and North/South Centers is incomprehensible given the dire state of U.S. diplomatic representation in many of the newly independent countries of the post-cold-war world. They are particularly inexplicable in light of the committee's decision to zero out the funding for the National Endowment for Democracy, a decision which the Senate fortunately reversed earlier today.

Mr. President, I would not be at all surprised to see in next year's bill funding for a North-by-Northwest Center, perhaps to include a banquet room honoring the last Alfred Hitchcock.

The bill also contains language that directs the U.S. Marshals Service to provide a magnetometer and not less than one qualified guard at each entrance to the Federal facility located at 625 Silver, S.W., in Albuquerque, NM. I must say that this is perhaps the most specific earmark I have ever seen, even providing an address to ensure the assets are delivered to the proper beneficiaries.

Once again, though, the Appropriations Committee has contributed a few new and innovative ways to earmark port-barrel spending.

The most interesting is language that I will call a reverse earmark. The report earmarks $8 million to begin addressing the backlog in repair and maintenance of FBI-owned facilities, other than those located in and around Washington, DC and Quantico, VA. I wonder whether my colleagues from this area were aware that they had been singled out for exclusion from an earmark.

Other report language earmarks are more typical, such as: Various earmarks for southwest border activities, although I note that my colleagues singled out the New Mexico and Texas borders for special attention to combat illegal border crossing and drug smuggling problems. I was of the impression that these problems were prevalent across the entire border with Mexico, including Arizona and California.

Similarly, the report requires that two-thirds of the additional 1,000 border patrol agents are to be deployed in Texas sectors, with the remaining 300-plus agencies to be scattered across New Mexico, Arizona, or California. The report earmarks $1 million for Nova Southeastern University in Florida for the establishment of a National Coral Reef Institute to conduct research on, what else, coral reefs. And it also earmarks $1 million to the University of Hawaii to conduct similar coral reef studies. I suppose this might be considered a good idea to fund competitive research projects, except these institutions did not have to compete to get these funds, nor will they likely have to compete to continue to receive hand-outs to continue their coral reef research.

The report contains $410,000 for the Alaska Eskimo Whaling Commission, and $200,000 for the Beluga Whale Commission. It contains $2.3 million to reduce tsunami risks to residents and visitors in Oregon, Washington, California, Hawaii, and Alaska. And it earmarks $88 million in NOAA construction funds for specific locations in Alaska, Hawaii, South Carolina, Mississippi, and other States.

And finally, this bill contains earmarks for assistance to the U.S. Olympic Committee to prepare for the 2002 Winter Olympics in Utah. I found $3 million for communications and security infrastructure upgrades, $2 million to formulate a public safety master plan, and language directing that NTIA provide telecommunications support to the Utah Olympics similar to that provided in Atlanta last summer. As my colleagues know, this is just a small portion of the funding we will see channeled to the Utah Olympics. It is in addition to the money included in the supplemental passed earlier this year and in other appropriations bills that have already passed this body.

While the wasteful spending in this bill is less onerous than in other bills I have seen in the past 2 weeks, I still have to object strenuously to the inclusion of these earmarks and add-ons in the bill. We cannot afford pork-barrel spending, even the amount contained in this bill.

I ask unanimous consent that a list of the objectionable provisions in this bill be printed in the RECORD.

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

OBJECTIONABLE PROVISIONS IN S. 1022 FY 1998 COMMERCE/JUSTICE/STATE/JUDICIARY APPROPRIATIONS BILL

BILL LANGUAGE

Earmarks for funding for the National Advocacy Center in Columbia, South Carolina, which was authorized in 1993 as a center for training federal, state, and local prosecutors and litigators in advocacy skills and management of legal operations: $2.5 million for operations, salaries, and expenses of the Center, $2.1 million to support the National District Attorney's Association participation in legal education training at the Center.

U.S. Marshals Service is directed to provide ''a magnetometer and not less than one qualified guard'' at each entrance to a federal facility (including both buildings and related grounds) at 625 Silver, S.W., in Albuquerque, New Mexico

$125,000 of State Department Diplomatic and Consular Programs funding earmarked for the Maui Pacific Center

$22 million of USIA funds earmarked for the Center for Cultural and Technical Interchange between East and West in the State of Hawaii, and $3 million for an educational institution in Florida known as the North/South Center

Section 606 prohibits construction, repair, or overhaul of vessels for the National Oceanic and Atmospheric Administration in shipyards outside the U.S.

REPORT LANGUAGE

Department of Justice:

Various earmarks for Southwest Border activities, including: $281,000 for a Southwest Border initiative; $11.4 million for Southwest Border control; $29.7 million and the direction to allocate additional necessary resources to address border crossing and drug smuggling problems along the New Mexico and Texas borders; $39.3 million in construction and engineering funds for facilities at 29 specific locations along the Southwest Border

Earmark of not less than $468,000 of the U.S. Marshals Service funding for witness security New York metro inspectors

Earmark of $700,000 for acquisition and installation of video conferencing equipment in jails and courthouses in New York, Illinois, Utah, Colorado, Nevada, Washington, and sites to be determined in New Mexico and Texas after consultation with the Appropriations Committee

Language urging the FBI to favorably consider the FBI Center in West Virginia as the location for a new training program on the investigative use of computers, for which $1 million was earmarked

$1.5 million to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and automation of fingerprint identification services

Increase of $8 million to begin addressing the backlog in repair and maintenance of FBI-owned facilities, other than those located in and around Washington, D.C. and Quantico, Virginia

Earmarks of a portion of the increased funding and positions for identification, apprehension, detention, and deportation of illegal aliens, as follows: $48.3 million for additional detention capacity, including 300 beds in New York, 300 bed in Florida, and 400 beds

in California facilities; $5 million for the Law Enforcement Support Center and expanded services of the Center in Utah.

Directive to deploy not less than two-thirds of the 1,000 new border patrol agents in the Mafa, Del Rio, Laredo, and McAllen sectors in Texas

Earmarks of increased funding for inspection activities for: Full-time manning of three in-transit lounges at Miami International Airport; $4 million for dedicated commuter lanes, including equipment and facilities, at Laredo, Hidalgo, and El Paso, Texas, and Nogales, Arizona; $1.7 million to staff three new airports in Oregon, California, and Nova Scotia; $700,000 for automated permit ports in Maine, Vermont, New York, Montana, Washington, Alaska, and New York; $1.5 million for automated I–94 equipment at airports in New York, Newark, Seattle, San Francisco, Los Angeles, Honolulu, Chicago, Philadelphia, Miami, and Boston.

Earmark for activation of new and expanded prison facilities in Texas, California, Mississippi, South Carolina, Arkansas, Texas, West Virginia, Washington, and Ohio

Language urging the Bureau of Prisons to favorably consider development of MDTV at the Beckley Federal prison facility

$1 million equally divided between Mount Pleasant and Charleston, South Carolina police departments for computer enhancements and equipment upgrades

$3 million for the Utah Communications Agency to support security and communications infrastructure upgrades to counter potential terrorism threats at the 2002 Winter Olympic Games, and $2 million to allow the Law Enforcement Coordinating Council for the 2002 Olympics to develop and support a public safety master plan

$2 million as a grant to establish a Public Training Center for First Responders at Fort McClellan, Alabama

$3.85 million for the National White Collar Crime Center in Richmond, Virginia

Earmarks of Violent Crime Reduction Trust Fund dollars for: $190,000 for the Gospel Rescue Ministries of Washington, D.C. to renovate the Fulton Hotel as a drug treatment center; $2 million for the Marshall University Forensic Science Program; $2 million for a rural states management information system demonstration project in Alaska; $500,000 for the Alaska Native Justice Center; $1 million for the Santee-Lynches Regional Council of Governments Local Law Enforcement Program; $10 million for North Carolina Criminal Justice Information Network for automation and security equipment; $1 million for the National Judicial College; Language urging funding for the New Orleans-based Project Return and Chicago-based Family Violence Intervention Program

$2 million for Southwest Surety Institute at New Mexico State University

$1 million for a public-private partnership demonstration project in Las Vegas, Nevada, for a home for victims of domestic abuse

Language directing funding to complete design of the Choctaw Indian tribal detention facility in Mississippi

Language expressing the expectation that the National Center for Forensic Science at the University of Central Florida will be provided a grant for DNA identification work, if warranted

$850,000 of juvenile justice grants for the Vermont Department of Social and Rehabilitation Services to establish a national model for youth justice boards.

$1 million for the New Mexico prevention project.

$200,000 for the State of Alaska for a study on child abuse and criminal behavior linkage.

$1.75 million for the Shelby County, Tennessee, Juvenile Offender Transition Program.

Direction to examine proposals and provide grants, if warranted, to the following entities: Hill Renaissance Partnership, Lincoln Council on Alcoholism and Drugs, Hamilton Fish National Institute on School and Community Violence, Low Country Children's Center, and Comprehensive Juvenile Justice Crime Prevention and Juvenile Assessment Center in Gainesville, Florida.

DEPARTMENT OF COMMERCE

Language urging the Economic Development Administration to consider applications for grants for: Defense conversion project at University of Colorado Health Sciences Center in Aurora, Colorado; Passenger terminal and control tower at Bowling Green/Warren County, Kentucky, regional airport; Jackson Falls Heritage Riverpark in Nashua, New Hampshire; Bristol Bay Native Association; Redevelopment of abandoned property in Newark, New Jersey; Pacific Science Center in Seattle, Washington; Rodale Center at Cedar Crest College in Lehigh Valley, Pennsylvania; Minority labor force initiative in South Carolina; Cumbres and Toltec Scenic Railroad Commission in Arriba County, New Mexico, and Conejos County, Colorado; Fore River Shipyard in Quincy, Massachusetts; Native American manufacturer's network in Montana; National Canal Museum in Easton, Pennsylvania; Cranston Street Armory in Providence, Rhode Island.

Recommendation that Little Rock, Arkansas, Minority Business Development Center remain in operation.

Recommendation that Jonesboro-Paraground, Arkansas, Metropolitan Statistical Area be designated to include both Craighead and Greene Counties.

Language urging the NTIA to consider grants to University of Montana and Marshall University, West Virginia.

Language directing NTIA to fund telecommunications support for the Olympic Committee Organization in Utah to ensure that similar telecommunications facilities as were available at the Atlanta Olympics

$500,000 earmarked for South Carolina geodetic survey

$300,000 earmarked for Galveston-Houston operation of physical oceanographic real time system

$1.9 million earmarked for south Florida ecosystem restoration, including $1 million for Nova Southeastern University for establishment of a National Coral Reef Institute to conduct research on coral reefs, and $1 million for the University of Hawaii for similar coral reef studies

$450,000 for a cooperative agreement with the State of South Carolina Department of Health and Environmental Control to work on the Charleston Harbor project

Increase of $6.6 million above the request for the National Estuarine Research Reserve System, which serves 22 sites in 18 states and Puerto Rico

$4.7 million for the Pacific fishery information network, including $1.7 million for the Alaska network

Not less than $850,000, for the marine resources monitoring assessment and prediction program of the South Carolina Division of Marine Resources

$390,000 for the Chesapeake Bay resource collection program

$50,000 for Hawaiian monk seals

$500,000 for the Hawaii stock management plan

$300,000 for Alaska groundfish surveys and $5.5 million for Alaska groundfish monitoring

$410,000 for the Alaska Eskimo Whaling Commission and $200,000 for the Beluga Whale Committee

$1 million for research on Steller seals at the Alaska SeaLife Center, $325,000 for similar work by the state of Alaska, and $330,000 for work by the North Pacific Universities Marine Mammal Consortium

$400,000 for the NMFS in Honolulu for Pacific swordfish research

$250,000 to implementation of the state of Maine's recovery plan for Atlantic salmon

$150,000 to the Alaska Fisheries Development Foundation

$200,000 for the Island Institute to develop multispecies shellfish hatchery and nursery facility to benefit Gulf of Maine communities

$3.8 million to develop a national resources center at Mount Washington, New Hampshire, to demonstrate innovative approaches using weather as the education link among sciences, math, geography, and history

$500,000 for the ballast water demonstration in the Chesapeake Bay

$2.3 million to reduce tsunami risks to residents and visitors in Oregon, Washington, California, Hawaii, and Alaska

$3 million increase, with total earmark of $15 million, for the National Undersea Research Program, equally divided between east and west coast research centers, with the west coast funds equally divided between the Hawaii and Pacific center and the West Coast and Polar Regions center

$1.7 million for the New England open ocean aquaculture program

$1 million for the Susquehanna River basin flood system

$97,000 for the NOAA Cooperative Institute for Regional Prediction at the University of Utah

$150,000 to maintain staff at Fort Smith, Arkansas, to improve the ability of southern Indiana to receive weather warnings

Earmarks of $88 million in NOAA construction funds for specific locations in Alaska, Hawaii, South Carolina, Mississippi, and others

DEPARTMENT OF STATE:

$22 million for East-West Center (increase of $15 million), and $3 million for North/South Center (increase of $1.5 million)

SMALL BUSINESS ADMINISTRATION:

Language stating SBA should consider funding a demonstration in Vermont with the Northern New England Tradeswoman, Inc.

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

METHAMPHETAMINE INITIATIVE

Mr. HATCH. Mr. President, I would like to thank the chairman of the subcommittee for taking what I believe is a necessary and meaningful step to turn the tide on a growing epidemic in this country, methamphetamine abuse. Although originally confined principally to the Southwest, including my home State of Utah, this epidemic is now moving East. Congress needs to take action to stop meth abuse.

Mr. GREGG. I could not agree more with the Senator from Utah. In my home State of New Hampshire, we are now experiencing our own influx of methamphetamine. I am seriously concerned about the effect that the proliferation of this drug is going to have

upon the children of this Nation, particularly in New Hampshire.

Mr. HATCH. Meth abuse, unfortunately, is also rapidly becoming one of our top public health threats. According to the latest data released by SAMHSA in its ''Drug Abuse Warning Network'' report released last week the number of children aged 12 to 17 who have had to go to emergency rooms due to meth use increased well over 200 percent between 1993 and 1995 alone. The number of deaths associated with meth has also increased dramatically. From 1989 to 1994, methamphetamine accounted for 80 percent or more of clandestine lab seizures by the DEA. Clandestine lab crackdowns are at an all-time high, and many more are going undetected. Mobile labs in rural areas of Utah, including numerous locations in Ogden, Provo, and the St. George area are making meth with virtual impunity. Local law enforcement does not have the manpower, resources, or technical expertise to cover such vast areas in a truly meaningful fashion. Federal law enforcement, most principally the Drug Enforcement Administration, has agents specially trained in the areas of methamphetamine lab take downs, but the number of such specialists is extremely limited, and certainly is of insufficient numbers to be any sort of meaningful presence in Utah, as well as the rest of the Rocky Mountains.

I am deeply concerned about the Methamphetamine problem in Utah, as well as the rest of the Nation. In my State, distribution by Mexican traffickers has been expanded by using networks established in the cocaine, heroin, and marijuana trades. Wholesale distribution is typically organized into networks in major metropolitan areas, to include Salt Lake City. Utah has 2,500 isolated noncontrolled airstrips which provide a convenient means for drug smugglers to transfer methamphetamine to vehicles for shipment throughout the United States. Also, there are over 65 public airports throughout the State that are not manned on a 24-hour basis, but can be lit from a plane by using the plane's radio tuned to a specific frequency.

Major highway systems such as I–15, I–70, and I–80 serve to interconnect Mexico with Colorado, Utah, and Wyoming which allows Utah to be an ideal transshipment point to major markets on the west coast, as well as Minneapolis, Chicago, Detroit, and other Midwestern areas. It also results in such illegal drugs being readily accessible throughout Utah.

According to the DEA, methamphetamine seizures nationwide in 1996 were the highest in over a decade. Not easily dissuaded, particularly when such large profits can be made, Mexican traffickers have begun obtaining the necessary precursor chemicals for methamphetamine from sources in Europe, China, and India. These precursor chemicals needed to manufacture methamphetamine drugs are available in Utah and have contributed to the increased consumption of the drug. Further, ephedrine tablets are purchased in large quantities and then converted to methamphetamine.

For these reasons I believe that it is imperative that this Congress provide the necessary resources to the DEA to engage in a meaningful methamphetamine initiative. I fully support the Appropriations Committee's report to S. 1022 that recommends that $16,500,000 of the funds appropriated to the DEA be used to fund a methamphetamine initiative, to include an additional 90 agents and 21 support personnel who will be tasked with implementing a broad approach for attacking methamphetamine abuse in this country. I strongly encourage that some of these funds be applied to funding DEA agents with particularized methamphetamine training be stationed in Utah to combat this ever growing threat in my State, and to prevent the methamphetamine lab activities in Utah from continuing to harm other States throughout this Nation.

Mr. GREGG. It is my intention that these new agents be allocated where they are most needed. Many States, such as New Hampshire and Utah are certainly experiencing the level of increased meth abuse this meth initiative is designed to address.

COOPER HOSPITAL'S TRAUMA REDUCTION INITIATIVE

Mr. LAUTENBERG. I would like to express my support for Cooper Hospital's Trauma Reduction Initiative.

Cooper Hospital is located in Camden, NJ, one of the most troubled cities in the Nation. Between 1994 and 1995, the number of violent crimes declined 4 percent nationwide, while in Camden they rose 8.6 percent. Homicides in Camden rose 28.88 percent, while homicides declined 6 percent nationally. With an estimated population of 82,000, Camden ranks as the sixth most violent city in the country when compared to all cities and towns.

Cooper Hospital's Trauma Reduction Initiative links hospital staff, community leaders, and churches throughout Camden as the frontline of crisis intervention. The Trauma Reduction Initiative represents a community-based approach to deal with the types of violence that disrupt our neighborhoods and burden our health care system.

According to Government research, by 2003, firearms will have surpassed auto accidents as the leading cause of injury death in the United States. But unlike victims of car accidents, who are almost always privately insured, four out of five firearm victims are receiving public assistance or are uninsured. Thus, taxpayers bear the brunt of medical costs that have grown to $4.5 billion a year in the past decade. Cooper Hospital's violence prevention program is designed to help stop the spiral of violent crime and retaliation in Camden. This program could serve as a model for other cities to follow.

The Trauma Reduction Initiative has received funding from the Bureau of Justice Assistance. I ask my colleagues, the chairman and ranking member of the Commerce, Justice, State Appropriations Subcommittee, if they agree that the Trauma Reduction Initiative is worthy of BJA's continued support?

Mr. GREGG. I appreciate the concerns of the Senator from New Jersey about the disturbing amount of violent crime in Camden. I agree that, within the available resources, the Trauma Reduction Initiative is worthy of BJA's continued support.

Mr. HOLLINGS. I, too, share the concerns of the Senator from New Jersey about the escalating costs of firearm violence in our country. I agree with the chairman that, within the available resources, BJA should continue to support the Trauma Reduction Initiative.

TECHNICAL CORRECTIONS

Mrs. FEINSTEIN. Mr. President, I would first like to thank the chairman and ranking member of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee for joining Senator BOXER and myself in this colloquy regarding our amendment to make technical corrections to title I, section 119 of the Commerce-State-Justice appropriations bill. This section, as amended, will allow the Department of Justice and the Federal Emergency Management Agency to transfer surplus real property to State and local governments for law enforcement, fire fighting, and rescue purposes.

Mrs. BOXER. Mr. President, I would like to join my colleague from California in thanking the chairman and ranking member for all their assistance on this issue. I would also like to extend our appreciation to the chairman and ranking member of the Governmental Affairs Committee, without whose suggestions this amendment would not have gone forward. I am very pleased to cosponsor this amendment, which modifies the amendment I offered in the Appropriations Committee to include the Department of Justice Property Transfer Act.

Mr. GREGG. I thank my colleagues from California for their hard work in including this language in the bill. We all know that the police and fire departments are the first to respond to crises, and this change in law will facilitate local agencies in obtaining surplus Federal property for primary and specialized law enforcement and rescue training. I am pleased to support this change in law for the benefit of our communities.

Mr. HOLLINGS. I join my colleagues in recognizing the value of this language. I would like to ask if the Senator from California knows of any situations where this change in law would serve immediate benefit?

Mrs. FEINSTEIN. I would be pleased to answer that question. I was first made aware of the problems that current property transfer laws poses by the sheriff of Riverside County in southern California. The sheriff's office

has obtained, by short-term lease, a portion of March Air Reserve Base. The sheriff's office has been using this land for joint law enforcement and fire and rescue training. This legislation will allow the sheriff's office to apply directly to the General Services Administration, which will coordinate the application and approval process with the Department of Justice and FEMA to transfer the necessary property. Once again, I thank my colleagues for their support of this legislation.

ABUSIVE AND EXPLOITATIVE CHILD LABOR

Mr. HARKIN. Mr. President, I would like to engage the chairman and the ranking member of the Commerce, Justice, State, and the Judiciary Subcommittee in a colloquy regarding abusive and exploitative child labor.

According to the International Labor Organization [ILO], some 250 million children between the ages of 5 and 14 are working in developing countries and the number is on the rise. I strongly believe that access to primary education reduces the incidence of child labor around the world. It is my understanding that the Asia Foundation supports efforts to improve access to primary education.

I would like to see some language in the conference report urging the Asia Foundation to continue its work in Pakistan. I know that our staffs' have conferred, and that you and the ranking member share my concern about abusive and exploitative child labor.

Mr. GREGG. I commend the Senator for his concern, and would welcome any report language he has regarding the matter. Though it is outside the scope of the conference, I will exploit any opportunity that presents itself that would allow language to be inserted in the conference report.

Mr. HOLLINGS. The Senator from Iowa has been working this issue hard, and I agree with the chairman.

KETCHIKAN SHIPYARD

Mr. MURKOWSKI. Mr. President, Ketchikan, AK, just north of the Canadian border in southeast Alaska, has recently suffered an extreme economic blow due to changes in Federal forest management policies. It is a town of just a few thousand people, and the loss of 406 jobs due to the closure of one of the town's major industries, a pulpmill, severely disrupted the community.

The need for economic revitalization in Ketchikan is great, but the available opportunities are limited. One potentially important opportunity is provided by a local shipyard, Ketchikan Ship and Drydock. However, the ability of this yard to contribute to the local economy is limited without a significant upgrade of its ability to handle a variety of vessel sizes.

It is my understanding that the subcommittee report on this appropriation recognizes similar situations in other areas by suggesting that the Economic Development Administration consider proposals which meet its procedures and guidelines.

Would the distinguished managers of the bill, my friends from New Hampshire and South Carolina, agree that if the EDA receives a proposal for the Ketchikan shipyard which meets its procedures and guidelines, the EDA should consider that proposal and provide a grant if the latter is warranted?

Mr. GREGG. Mr. President, the distinguished Senator from Alaska is correct. I would urge the Economic Development Administration to consider such a proposal that met its procedures and guidelines and urge it to provide a grant if it finds the proposal warranted.

Mr. HOLLINGS. Mr. President, I agree with the response by my friend from New Hampshire.

NIST FUNDING FOR TEXAS TECH UNIVERSITY WIND RESEARCH

Mrs. HUTCHISON. Mr. President, I would like to ask the distinguished Subcommittee Chairman, Senator GREGG, to engage in a colloquy on a matter of extreme importance to my State and a number of others, and that is the need for more research into wind and severe storm disasters and ways to protect people and property from catastrophic harm.

Mr. GREGG. Mr. President, I would be happy to yield to the Senator from Texas and engage in a colloquy.

Mrs. HUTCHISON. Mr. President, as you know, there have been a number of severe tornadoes, wind storms, hurricanes and other wind-related disasters in recent months which have killed scores of people and destroyed communities. Earlier this year, the small town of Jarrell, TX, experienced a tornado that killed 29 people, seriously injured many others, and caused millions of dollars in damage to homes and businesses. The President's home State of Arkansas was also hit by a wind disaster that resulted in loss of life. The home State of the Ranking Minority Member of the Subcommittee, Senator HOLLINGS is still rebuilding after the devastation of Hurricane Hugo in 1989.

Mr. President, there is important work being done at Texas Tech University to help improve design construction of buildings to make them more resilient to windstorms. The laboratory building will include space to house a wind tunnel, a structural and building component testing lab and a material testing lab. These laboratory facilities will be used to develop innovative building frames and components that are resilient to extreme winds and windborne debris and yet are economically affordable. The research will also produce results to help cope with the environmental effects of wind erosion and dust and particulate generation.

The Department of Commerce, through the National Institute of Standards and Technology, does wind research. NIST in particular is engaged in research that complements the Texas Tech project.

The Committee has provided $276,852,000 for the scientific and technical research and services (core programs) appropriation of NIST. Part of the increased amount is for continued research, development, application and demonstration of new building products, processes, technologies and methods of construction for energy-efficient and environmentally compatible buildings.

Senator GREGG, do you concur that it is the intent of the committee to direct $3.8 million in funds provided to NIST for scientific and technical research and services for cooperative research between NIST and Texas Tech University to pursue this important wind research?

Mr. GREGG. It is the intent of the Committee to direct $3.8 million of NIST's scientific and technical research and services funding provided in the bill for cooperative research with Texas Tech University. I look forward to working with the Senator from Texas to ensure that the additional funds provided for core programs for continued research, development, application and demonstration of new building products, processes, technologies and methods of construction supports cooperative wind research between NIST and Texas Tech University.

SMALL BUSINESS DEVELOPMENT CENTERS

Mr. CHAFEE. I wonder if I could get the attention of the distinguished manager of the bill, Commerce, Justice, State Appropriations Subcommittee Chairman JUDD GREGG. I have a proposal related to small business development centers, and I'd like to get him to comment on it.

Mr. GREGG. I'd be happy to.

Mr. CHAFEE. I thank the Senator. What I propose to do is give more SBDCs the tools they need to encourage small companies to start exporting. As the Senator knows, the SBDCs are doing a terrific job helping small business owners devise business plans, marketing strategies, and so forth, but many of them simply don't have the capacity to offer advice on how to export.

We ought to try to change that, in my view. Exporting is the name of the game today—even for small businesses. And one way to do that would be to broaden access to a successful small business export promotion program called the International Trade Data Network, or ITDN.

Now, what is the ITDN? The ITDN is a computer-based service that small business owners can use to retrieve a stunning amount of international trade data—compiled both from Federal Government sources and the private sector. With a few quick keystrokes, individuals can read about everything from market demographics to descriptions of upcoming trade missions to explanations of relevant export and import regulations to potential contract leads. Small businesses anxious to export can learn about virtually every industry and virtually every country.

The ITDN was developed in 1988 by the Export Assistance Center at Bryant College in Smithfield, RI, and it's

been a big help to literally hundreds of Rhode Island's small businesses. In fact, 18 companies in Rhode Island use the ITDN every single day.

Listen to some of these endorsements from Rhode Island business owners. One said, ''The information made available through the ITDN is an integral part of our Pre-Entry Level Market Analysis.'' Another reported, ''I find the ITDN to be a state-of-the-art, user friendly software that is a one-stop shop for international information. It is a vital tool for businesses today that need to survive in a global environment.''

But right now, only 30 or so of our 960 Small Business Development Centers have direct access to the ITDN. So what I'd like to do is expand the program, so that SBDCs all across the country are connected to it. Specifically what I have in mind is converting the ITDN to an internet-based website, and establishing an Interactive Video Trade Conferencing Center at each State's lead small business assistance office. My proposal would also make the ITDN technology available to the Approximately 2,500 SBDC sub-centers across the country.

As I understand the situation, SBDCs are already authorized to conduct export promotion activities under Section 21 of the Small Business Act. In fact, representatives of Bryant College met with the SBA's Associate Administrator for the SBDC program earlier this year to discuss this proposal, and received a very positive response. For one reason or another, however, the SBA has been reluctant to dedicate any money to this purpose.

The 1988 Commerce, Justice, State Appropriation bill contains $75.8 million for the SBDC program, an increase of some $2.3 million over the 1997 funding level. In talking with the folks at the Export Assistance Center at Bryant College, it's my understanding that expanding the ITDN could be done over 2 years, with a first year cost of about $925,000. I'd ask the distinguished manager if I could get his endorsement of my proposal.

Mr. GREGG. I appreciate the Senator's interest in this matter, and I agree that we ought to look for ways to increase American small businesses' capacity to export.

Having looked at the Senator from Rhode Island's proposal, and listened to his remarks, I think that the ITDN program could be an excellent tool for opening international markets. I strongly encourage the Small Business Administration to make funds available for the expansion of the ITDN in fiscal year 1998.

Mr. CHAFEE. I want to thank my friend from New Hampshire for his support for this initiative.

''MADE IN THE USA'' ADVERTISING

Mr. KOHL. I understand that the FTC has proposed to weaken the standard for ''Made in the U.S.A.'' advertising from ''all to virtually all'' U.S. content to ''substantially all'' U.S. content. The proposal sets forth two alternative safe harbors for ''Made in the U.S.A.'' claims: 75 percent U.S. content—U.S. manufacturing costs represent 75 percent of the total manufacturing costs for the product and the product was last substantially transformed in the U.S. or; two level substantial transformation—The product was last substantially transformed in the United States and all significant inputs were last substantially transformed in the United States.

I also understand that the new proposed guidelines would have the effect of allowing products made with 25 percent or more foreign labor and foreign materials to be labeled ''Made in the U.S.A.'' In some cases, the FTC's proposed guidelines would allow products made entirely with foreign materials and foreign components to be labeled ''Made in the U.S.A.''

The ''Made in the U.S.A.'' label, a time-honored symbol of American pride and craftsmanship, is an extremely valuable asset to manufacturers. Allowing this label to be applied to goods not wholly made in America will encourage companies to ship U.S. jobs overseas because they can take advantage of the cheaper labor markets while promoting their products as ''Made in the U.S.A.'' For products not wholly made in the U.S.A., companies already can make a truthful claim about whatever U.S. content their products have—e.g., ''Made in the U.S.A. of 75 percent U.S. component parts'' or ''Assembled in the U.S.A. from imported and domestic parts''. However, if manufacturers seek to voluntarily promote their products as ''Made in the U.S.A.'' they must be honest in that promotion and only apply the ''Made in the U.S.A.'' label to products wholly made in the U.S.A.

Mr. GREGG. I am aware of the concerns expressed by my colleague on the Appropriations Committee and share the Senator's concerns on the need to protect American jobs. My subcommittee has jurisdiction over the FTC and you can be assured that we will closely watch any action taken by the FTC regarding the current standard for ''Made in the U.S.A.''

Mr. HOLLINGS. I too want to assure the Senator that our Subcommittee will closely monitor any actions on the FTC's part to change the ''Made in the U.S.A.'' designation. The ''Made in the U.S.A.'' label should continue to assure consumers that they are purchasing a product wholly made by American workers.

Mr. KOHL. I thank Senator GREGG and Senator HOLLINGS for their comments on this important issue. I am reassured by their interest in this matter.

JEFFERSON PARISH COMMUNICATIONS SYSTEM

Mr. BREAUX. Mr. President, I rise to discuss with the distinguished chairman of the subcommittee, Senator GREGG, the distinguished ranking member of the subcommittee, Senator HOLLINGS, and my distinguished colleague from Louisiana, Senator LANDRIEU, an important safety issue facing Jefferson Parish, LA.

As my colleagues know, the Jefferson Parish Sheriff's Office is one of the most progressive and notable law enforcement offices in the country. Unfortunately, they have been forced to use a conventional 450 MHz UHF radio system that is far too small and antiquated to handle current traffic volumes and to provide the secure and varied communications capabilities necessary in today's law enforcement environment. Replacing this old system with a new 800 MHz digital system is necessary to ensure the safety of its residents and guests, and to enhance the operational efficiencies of the sheriff's office.

Hurricane Danny recently demonstrated the dire need for this new communications system. Grand Isle, off the southern-most part of Jefferson Parish, is a barrier island with approximately 2,500 residents. There is, however, only one road leading from Grand Isle to the mainland. When it appeared this road was at risk because of Danny's 70–75 mph winds and high tides, the sheriff's office decided to evacuate the island. Unfortunately, before the island could be safely evacuated, one of the radio towers was damaged and rendered inoperable by the hurricane. The sheriff's office was forced to borrow cellular telephones in order to evacuate the island.

Ms. LANDRIEU. The Senator makes a fine point, and I would like to add that the new communications system would also support inter-operability with most of the adjoining parishes and the city of New Orleans. This would mean expanded emergency capabilities throughout the region which are vital to the entire State of Louisiana.

Mr. BREAUX. Mr. President, as my colleague knows, the sheriff's office of Jefferson Parish has sought assistance in the past and has helped to highlight the need for Federal assistance to help local law enforcement agencies replace outdated communications equipment. In fact, the sheriff's office was influential in getting a discretionary grant program created in 1994 that would provide funds for these types of activities. However, Congress has consistently earmarked these funds, leaving no funds for grant applicants.

Ms. LANDRIEU. Mr. President, the Jefferson Parish Sheriff's Office has demonstrated its commitment to this project by allocating over 50 percent of the cost of this initiative in a dedicated escrow account. In a competition for funds, the sheriff's office, with its well developed procurement strategy and available matching funds, would no doubt prevail as a deserving candidate.

Mr. GREGG. I thank the Senators from Louisiana for bringing this issue to my attention. I understand that the new communication system for the sheriff's office in Jefferson Parish is a priority and I will give this request my attention and consideration in conference.

Mr. HOLLINGS. I too, thank the Senators from Louisiana and believe that this is a project worthy of attention in conference.

Mr. BREAUX. I greatly appreciate the assistance of the distinguished chairman and ranking member of the subcommittee in this matter. I would like to thank them and my colleague from Louisiana, Senator LANDRIEU, for joining me in this colloquy.

ODYSSEY MARITIME DISCOVERY CENTER EXHIBITS AND LECTURE SERIES

Mrs. MURRAY. Mr. President, I would like to urge the chairman and ranking member of the Commerce, State Justice Appropriations Subcommittee to join me in directing the National Marine Fisheries Service, through the Information and Analyses, Resource Information account, to provide $250,000 to the Odyssey Maritime Discovery Center in Seattle, WA.

The Odyssey Center is a new educational learning center opening in July, 1998. This Center will establish an educational link between the everyday maritime, fishing, trade, and environmental activities that occur in the waters of Puget Sound and Alaska, and the lessons students learn in the classroom. Through high-tech and interactive exhibits, over 300,000 children and adults per year will discover that what happens in our waters, on our coast lines, at our ports affects our State's and Nation's economic livelihood, environmental well-being, and international competitiveness. The Center wishes to establish an exhibits and lecture series to link the public, particularly school children, with the maritime, fishing, trade, and environmental industries. Named in honor of the great Senator of Washington, Warren G. Magnuson, this series would begin in 1998 and would serve as an educational resource on the sustainable development, uses, and protection of our seas and coastal waters. This series would provide a fitting tribute to Senator Magnuson, the founder of this Nation's Federal fisheries policies and the namesake of our principal fisheries management law, the Magnuson-Stevens Fishery Conservation and Management Act.

Mr. HOLLINGS. Mr. President, I join the Senator from Washington in supporting this exhibits and lecture series at the Odyssey Maritime Discovery Center and believe the National Marine Fisheries Service should provide $250,000 through the Information and Analyses, Resource Information account. I too feel this series will provide a fitting tribute to the former Senator from Washington and an important learning tool for young people.

Mr. GREGG. Mr. President, I also join the Senator from Washington in supporting this lecture series. I think Senator Magnuson would be honored by this educational effort to teach children about the ways of the sea, and the economic and ecological ways of life that depend on it.

Mrs. MURRAY. I thank the chairman and ranking member of the Subcommittee for their support and interest.

Mr. GORTON. Mr. President, I join in support of this effort on behalf of the Odyssey Maritime Discovery Center and I applaud Senator MURRAY's efforts on the Center's behalf.

WOMEN'S BUSINESS CENTERS

Mr. DOMENICI. Mr. President. On June 12, I introduced in behalf of myself and Senator BOND, along with 24 other cosponsors, a bill to strengthen the Small Business Administration's [SBA] women's business centers program. This bill, S. 888, the ''Women's Business Centers Act of 1997,'' reflects our commitment for a stronger and more dynamic program for women-owned businesses.

I am pleased that the Small Business Committee has included the text of this bill into its 3-year reauthorization of the Small Business Act. It is anticipated that this reauthorization bill will be considered by the Senate within the next few months. The language in the reauthorization bill, as stated in the ''Women's Business Centers Act of 1997,'' increases the annual funding authorization for the women's business centers to $8 million from the present level of $4 million, authorizes the centers to receive funding for 5 years rather than the present 3 years, changes the matching Federal to non-Federal funding formula, and enables organizations receiving funds at the date of enactment to extend their program from 3 to 5 years.

Since the Small Business Committee's reauthorization bill has not yet been considered by the Senate, the additional funds for the women's business centers' program are not included in S. 1022. I do want, however, to thank Senator GREGG, Chairman of the Commerce, State, Justice, and Judiciary Subcommittee of the Senate Appropriations Committee, for providing full funding of the authorized $4 million for 1998. This is most appreciated by all of us who support the women's business centers' activities, and it is especially important since the House has requested $1 million less for this program.

It will be most beneficial if the Small Business reauthorization bill is considered and passed in the Senate and House prior to conference on this appropriations measure. I draw my colleagues' attention to this issue because absent the higher authorized funds of $8 million for the women's centers' program, it means in 1998 we may not be able to achieve the expansion of this program as we intended. There will be insufficient funds to expand the program into States who presently do not have women's centers and existing programs cannot extend their programs from 3 to 5 years. This is a serious problem because we are well aware of the positive benefits of the women's business centers in helping women entrepreneurs, the fastest growing group of new small businesses in the United States. These business centers are able to leverage public and private resources to help their clients develop new businesses or expand existing ones, and their services are absolutely essential for the successful and continued growth of this sector of our economy.

I am also concerned that because there are insufficient funds to expand the women's business centers' program, existing centers will not be able to extend their activities from the present 3-year grant program to a 5-year schedule. These existing centers in approximately 29 States have proven track records of support to women entrepreneurs. The Office of Women's Business Ownership within the SBA will continue its administration of the overall program and will be able to develop a few new sites in States that do not have centers; however, the office is not yet authorized to extend funding an additional 2 years for existing sites. This is most regrettable because these successful existing centers desperately need these small amounts of funds to continue their professional assistance to their women-owned business clients.

Mr. President, I want to once again go on record that I am dissatisfied that the SBA has not given appropriate attention to the women's business program. It has failed to provide sufficient professional personnel to the Office of Women's Business Ownership in order to carry out its important tasks. It has repeatedly requested less funding than authorized for the program despite the fact that this is one of the most successful of all SBA programs. To my knowledge, it has never come to Congress and requested additional monies for the program; instead, it has expected Congress to do SBA's work in trumpeting the successes of this small but vital program. I find it most discouraging that while we in Congress are well aware of the outstanding work of the women's business centers—and the administration's repeatedly publicized the success stories last year—there appears to be minimal support within SBA for expanding the work of this very small program. This is a loss to the agency, and it is most assuredly a loss to countless thousands of women entrepreneurs, let alone a loss to our overall national economy.

We must keep in mind that the funds in this bill for the women's business centers reflect those appropriated in 1997, and, therefore, the expansion of this program as envisioned in S. 888, the ''Women's Business Centers Act of 1997'' and the reauthorization of the Small Business Act, may be delayed. As evidenced by cosponsorship of S. 888, a fourth of the Senate, on a bipartisan basis, supports expansion of the women's business centers' program. We need to be aware of the consequences of this and do everything we possibly can to provide the support this critical and highly successful program needs in the future. Thank you.

THE VERMONT WORLD TRADE OFFICE

Mr. LEAHY. Mr. President, I would like to take a moment to highlight a

program in my State which I believe is a model the Small Business Administration [SBA] should consider investing in. Small businesses are the driving force of Vermont's economy. An important reason for their success in the State has been the development of a healthy export market for the goods they produce. Forty percent of Vermont companies, employing some 70,000 Vermonters, are engaged in some degree of export trade. In 1995, Vermont created and funded the Vermont World Trade Office [WTO] to provide technical assistance to Vermont businesses and information on foreign trade opportunities. The office has been overwhelmed by requests from companies interested in exploring trade opportunities. To meet that demand and make the office more convenient to Vermont businesses, the WTO hopes to open satellite offices in other parts of the State, expand services and offer additional seminars for interested businesses. Funding from the SBA would make this expansion possible. I believe that a modest investment by SBA would yield a valuable demonstration of the importance of export assistance in building and expanding markets for small businesses. Does the Senator from New Hampshire agree that this would be an appropriate use of SBA funding?

Mr. GREGG. Mr. President, I thank the Senator from Vermont for bringing this project to my attention. I agree that many small businesses do not have adequate access to information on building an export market for their goods. A demonstration of the importance of this assistance by the Vermont World Trade Office would benefit other States considering a similar system. I urge the SBA to consider providing the Vermont World Trade Office with $150,000 to conduct such a demonstration.

VIOLENCE INSTITUTE

Mr. LAUTENBERG. I want to express my support for the University of Medicine and Dentistry of New Jersey's [UMDNJ] Violence Institute, which provides valuable assistance to our efforts to curb violent behavior in all aspects of our society. The Violence Institute's programs are not directed solely at violent behavior of a criminal nature, but also focus on issues of domestic violence, and violence against women and children. I want to note that the Violence Institute was one of only a handful of projects recommended for special funding in the conference report accompanying the fiscal year 1997 Commerce, Justice, State appropriations bill.

I ask my colleagues, the chairman and ranking member of the Commerce, Justice, State Appropriations Subcommittee, Senators GREGG and HOLLINGS, if they agree that the Violence Institute's initiatives to curb violent behavior are consistent with the Department of Justice's objectives and that such programs are worthy of the Department's support?

Mr. GREGG. I appreciate the concerns of my colleague from New Jersey about reducing violent behavior in our society, and I agree that the Violence Institute provides valuable assistance in addressing the epidemic of violent crime in the United States. Successful programs that provide research into the basic causes of violence, and that develop initiatives to prevent the spread of violent crime, can be valuable tools in our Nation's fight against crime. I believe that programs such as the ones conducted at the Violence Institute are worthy of the Department's support.

Mr. HOLLINGS. I, too, share the concerns of the Senator from New Jersey about violent crime in our society. The Violence Institute's research in this area makes a significant contribution to the Department of Justice's efforts to address this problem, and I agree with the chairman that programs like the Violence Institute are worthy of the Department's support.

COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Mr. LEAHY. Mr. President, Chairman GREGG and the Appropriations Subcommittee on Commerce, Justice, State and the Judiciary recognize in the Report for S. 1022 that the ''pace of technological change in the telecommunications industry poses enormous challenge'' both to law enforcement and national security agencies in conducting court-authorized wiretaps and ''in the conduct of foreign counterintelligence and terrorism investigations in the United States.'' The Communications Assistance for Law Enforcement Act [CALEA], which I sponsored in the 103d Congress, addressed this public safety and national security problem, after considerable debate and hearings in the Judiciary Committees of both the House and the Senate. I commend the chairman and the subcommittee for recognizing ''that digital telephony is a top law enforcement priority.''

CALEA authorizes $500 million for the Attorney General to pay telecommunications carriers for costs associated with modifying the embedded base of equipment, services, and facilities to comply with CALEA. Nevertheless, S. 1022 does not include any funding for this law, based upon the Committee's finding ''that the Bureau has adequate resources available.''

Moreover, the report recommends that no funds be expended for CALEA until the following requirements are met: First, the Bureau creates a working group with industry officials approved by the House and Senate Appropriations Committees, and second, the working group develops a new ''more rational, reasonable, and cost-effective CALEA implementation plan'' that is satisfactory to the Senate Appropriations Committee.

Would Chairman GREGG agree with me that in addition to the Appropriations Committees, the Judiciary Committees of both the House and Senate, which authorized CALEA, should also be involved in approving the industry officials on the working group and any plan provided by the working group?

Mr. GREGG. Yes. It is appropriate for the Committees on the Judiciary of both the House and the Senate to be involved and that was the intention of the committee when it prepared the report.

Mr. HOLLINGS. Yes. I agree with Senators LEAHY and GREGG.

Mr. LEAHY. This addresses one of the concerns I have with the report's new requirements for expenditures of money for CALEA implementation.

I am also concerned about whether creation of the working group tasked with developing a CALEA implementation plan will delay, rather than facilitate, implementation of this law and compliance by telecommunications carriers with the four law enforcement requirements enumerated in this important law. Indeed, the report places no time constraints on creation of this working group or on when the Bureau-working group implementation plan must be submitted to the specified committees.

Further delay in implementation of CALEA poses risks for the effectiveness of our law enforcement agencies. As the committee acknowledges, they are already encountering problems in executing court-authorized wiretaps. The industry, with the input of law enforcement, has drafted a specifications standard for CALEA. I am concerned that objections from the Bureau over elements in that proposed standard are delaying its adoption. I would like to see the Bureau accept that standard and get on with CALEA implementation.

I am also concerned that the working group proposed by the committee will work behind closed doors, without the accountability that CALEA intended. We should make sure that any meetings of the working group will be open to privacy advocates and other interested parties.

I fully appreciate that questions have been raised about how the implementation of CALEA is proceeding. That is why, over a year ago, Senator SPECTER and I asked the Digital Privacy and Security Working Group, a diverse coalition of industry, privacy and government reform organizations, for its views on implementation of CALEA, and other matters. We circulated to our colleagues on June 20, 1997, a copy of this group's ''Interim Report: Communications Privacy in the Digital Age.'' The report recommends that hearings be held to examine implementation of CALEA, how the Bureau intends to spend CALEA funds, and the viability of CALEA's compliance dates. This recommendation is a good one.

We should air these significant questions at an open hearing before the authorizing Committees. I would rather see the authorizing Committees work in that fashion with the Appropriations Committees to make funds immediately available and insure those

funds are spent to establish a minimum standard that serves law enforcement's pressing needs, without some of the enhancements being proposed by the FBI that industry claims are delaying the process of implementation. The committees should insist on some priorities in terms of geographic need and capability. I think we could resolve this with a little oversight, and return to the spirit of reasonableness that characterize the drafting of CALEA.

TECHNICAL CORRECTIONS

Mr. GREGG. Mr. President, the following are technical corrections to the fiscal year 1998 Departments of Commerce, Justice, and State, the Judiciary and related agencies appropriations report: First, under ''Title I—Department of Justice'', on page 7, line 3, delete $17,251,958,000; and insert $17,278,990,000; on page 7, line 6, delete $826,955,000 and insert $853,987,000; and second, under ''Title V—Related Agencies, Small Business Administration'', on page 126, line 22, delete $8,756,000 and insert $8,756,000,000.

AMENDMENT NO. 979

Mr. GREGG. Mr. President, I ask unanimous consent that we now adopt the managers' amendment, which is the pending amendment No. 979.

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

The amendment (No. 979) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 999 THROUGH 1021, EN BLOC

Mr. GREGG. Mr. President, I now send a series of amendments to the desk and ask unanimous consent that they be considered read and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to these amendments be inserted at this point in the RECORD, with all of the above occurring, en bloc.

These amendments have been cleared by both sides of the aisle.

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

The amendments (Nos. 999 through 1021) were agreed to, as follows:

AMENDMENT NO. 999

At the appropriate place, insert the following: Notwithstanding any other provision of law, the Economic Development Administration is directed to transfer funds obligated and awarded to the Butte-Silver Bow Consolidated Local Government as Project Number 05–01–02822 to the Butte Local Development Corporation Revolving Loan Fund to be administered by the Butte Local Development Corporation, such funds to remain available until expended.

AMENDMENT NO. 1000

(Purpose: To require a non-profit public affairs organization to register with the Attorney General if the organization receives contributions in excess of $10,000 from foreign governments in any 12-month period)

On page 65, between lines 9 and 10, insert the following:

SEC. 120. (a) Section 1(d) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(d)) is amended by inserting after ''The term 'agent of a foreign principal' '' the following: ''(1) includes an entity described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986 that receives, directly or indirectly, from a government of a foreign country (or more than one such government) in any 12-month period contributions in a total amount in excess of $10,000, and that conducts public policy research, education, or information dissemination and that is not included in any other subsection of 170(b)(1)(A), and (2)''.

(b) Section 3(d) of such Act (22 U.S.C. 613(d)) is amended by inserting '', other than an entity referred to in section 1(d)(1),'' after ''any person''.

Mr. BINGAMAN. Mr. President, this amendment is basically a sunshine provision that would require nonprofit public affairs organizations to register with the Attorney General if such organizations receive contributions in excess of $10,000 from foreign governments in any 12-month period.

This provision would not affect churches, hospitals, or other nonprofit, 501(c)3 organizations which are not focused on public policy matters. In fact, this amendment only affects those public policy nonprofit organizations that do accept foreign government money.

Furthermore, this amendment does not prohibit or object to such foreign government contributions. It only requires that organizations publicly acknowledge such contributions—when they are over a threshold of $10,000 a year from all foreign government sources—by registering this information with the Attorney General under the Foreign Agents Registration Act.

Mr. President, I'm sure that many of my colleagues may be wondering what triggered the need for this legislation. Let me state that this amendment is not directed at any particular organization or nonprofit entity. This is simply a common-sense provision that will help make the public affairs environment healthier by the disclosure of when foreign government money is supporting a given nonprofit public affairs organization and when not.

These nonprofit organizations are organized for the public good and they are subsidized by the American people. To the degree that these organizations are weighing in on important public policy matters—particularly on our Nation's economic policies and defense strategies, but also in other public policy areas—and are receiving foreign government contributions to support their activities, I believe that the American public has the right to know that such foreign government contributions have been made to that organization.

Members of Congress and their staff meet regularly with representatives of many nonprofit public affairs organizations—which are permitted to engage in public education activities on the Hill. But while some organizations like the Japan Economic Institute and Korea Economic Institute are quite straightforward about their primary funding sources and register with the Attorney General that their sources of funding are foreign governments, some other nonprofit public affairs organizations actually try to keep from public view the fact that they receive substantial foreign government revenue.

When these groups meet with Members of Congress and staff, mail information all around the country, and organize public affairs events without ever disclosing the fact that their funding comes from other countries' national governments, something is wrong.

Mr. President, this amendment has a different target than the discussions going on about campaign finance reform. It is focused on a rather narrow window in the law which allows some nonprofits to be bolstered by foreign government funds while not having to be upfront with the broader public.

I believe that our public policy process can only benefit by the disclosure that this legislation would require. And I trust that my colleagues will agree and hope that they will support this amendment which I am offering today.

AMENDMENT NO. 1001

At the appropriate place, insert the following new section:

SEC. . The Office of Management and Budget shall designate the Jonesboro-Paragould, AR Metropolitan Statistical Area in lieu of the Jonesboro, AR Metropolitan Statistical Area. The Jonesboro-Paragould, AR Metropolitan Statistical Area shall include both Craighead County, AR and Greene County, AR, in their entirety.

AMENDMENT NO. 1002

On page 29 of the bill, on line 18, before the '':'' insert the following: '', of which $25,000,000 shall be for grants to states for programs and activities to enforce state laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors''.

Mr. BYRD. Mr. President, of the funds appropriated for law enforcement grants in the bill before us, my amendment would ensure that $25 million would be provided for grants to states for programs and activities to enforce state laws regarding youth access to alcohol. This amendment adds no money to the bill and needs no offset.

All states prohibit the sale of alcoholic beverages to minors. In addition, thee are a range of other laws regarding youth access to alcohol that states may have on the books. For instance, some states, in addition to prohibiting the sale of alcoholic beverage to minors, have laws prohibiting the consumption of alcoholic beverages by minors, and still others ban possession of alcoholic beverages by minors.

Mr. President, just today in The Washington Post there is an article regarding a sting operation in Arlington County in establishments that sell alcohol to minors. According to the officer in charge of the operation, minors purchased alcoholic beverages without any kind of I.D. check in 57 percent of the establishments visited. This is a

disgrace, Mr. President, and, I am afraid, a not uncommon occurrence. I concur wholeheartedly with a quote of Eric, who is 19 years old and who participated in the sting operation. According to Eric, ''We've figured out why we have an underage drinking problem.'' With the media and advertisements besieging our nation's youth with unrealistic messages about alcohol consumption combined with insufficient enforcement of laws already on the books, what you wind up with is, indeed, an ''underage drinking problem.'' The article concludes by saying that County officials even warned establishments that they would be using underage people to buy alcohol, and, still, 57 percent of the time the underage participants in the operation were able to purchase alcohol without challenge. What would the percentage have been had the letters not been sent? Mr. President, I ask unanimous consent that the article from The Washington Post be printed into the RECORD.

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

ALCOHOL SALES TO MINORS TARGETED—170 OF 294 BUSINESSES SOLD TO TEEN TESTERS

[From the Washington Post, July 24, 1997]

(By Brooke A. Masters)

When the Arlington County police decided to crack down on restaurants, hotels and stores that sell alcohol to minors, they were shocked by the results.

Since mid-June, they have sent 18- and 19-year-old testers to 294 establishments, and the testers were able to buy booze at 170 of them. Servers and clerks failed to check identification at everything from the Ritz-Carlton Hotel to two out of three restaurants in the Fashion Centre at Pentagon City to dozens of small convenience stores.

''We're making purchases at 57 percent of the places we go to. It's really absurd,'' said Lt. Thomas Hoffman, who is overseeing the sting. ''We figured we'd get 30 percent.''

Eric, a 19-year-old Virginia Tech sophomore who participates in the stings, said, ''We've figured out why we have an underage drinking problem.''

Eric, who is not being fully identified because he's still out trying to buy alcohol, and his fellow student aides wear recording devices when they enter a store or a restaurant. They carry no identification, so stores and restaurants can't claim that the testers provided fake IDs.

In restaurants, the students order drinks, and county police officers take over once the alcohol arrives, Hoffman said. They pour the drinks into evidence bottles, take pictures of the server and hand out arrest warrants.

In stores, the students take beer or wine up to the counter, pay for it and leave. Then an officer goes in and makes an arrest, he said. Often, the employees claim that they usually check ID or that the tester is a regular. The employees all have been charged with serving alcohol to a minor, a misdemeanor.

At Hard Times Cafe in Clarendon, the young female tester came in with an older man, and the server ''looked at the guy and assumed he's her father and he wouldn't let her drink under age,'' said Su Carlson, the general manager. ''We were wrong. But it's slightly entrapment. It's better to put an undercover person in an establishment, and if they see someone underaged drink, ID them.''

The sting also has caught four underage people selling alcohol, which also is illegal, Hoffman said. One of those caught was a 10-year-old working beside her father at a family-run store, he said.

Testers have revisited 12 stores and restaurants after busting employees a first time, and two of them, a Giant pharmacy and a CVS drugstore, failed to card a second time, police records show.

''We are constantly educating our people about selling alcohol to minors with training sessions, booklets and videos,'' Giant Vice President Barry Scher said. ''But we have 5,000 checkers, and we do the best we can.''

The Virginia Department of Alcoholic Beverage Control has started administrative proceedings against 29 establishments where arrests have been made, and that's just the beginning. ''It is our intention to file a charge against each and every establishment,'' said Philip Disharoon, assistant special agent in charge of the Alexandria/Arlington ABC office.

The sting, while it is Arlington's first in recent years, is not unprecedented in the Washington area. In 1994, Montgomery County sent underage drinkers to 25 county hotels and eventually cited 14 businesses for selling alcohol to minors in hotel rooms.

Nor did the operation come out of the blue: Arlington officials sent letters to all licensed stores, restaurants and hotels in April warning that they would be using underage people to buy alcohol.

Mr. BYRD. Mr. President, alcohol is the drug used most by teens with devastating consequences. According to statistics compiled by the National Center on Addiction and Substance Abuse, among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetimes experimented with alcohol. As I consistently remind my colleagues, in the last month, approximately 8 percent of the nation's eighth graders have been drunk. Eighth graders are 13 years old, Mr. President! Junior and senior high school students drink 35 percent of all wine coolers and consume 1.1 billion cans of beer a year. And I will repeat what is common knowledge to us all—every state has a law prohibiting the sale of alcohol to individuals under the age of 21. Knowing this, how is it then that two out of every three teenagers who drink report that they can buy their own alcoholic beverages? As if the dangers of youth alcohol consumption are not bad enough, statistics have shown that alcohol is a gateway to other drugs such as marijuana and cocaine.

Drinking impairs one's judgment and when mixed with teenage driving there are too often lethal results. In 1995, there were 2,206 alcohol-related fatalities of children between the ages of 15 and 20. For many years, I have taken the opportunity when addressing groups of youth West Virginians to warn them about the dangers of alcohol, and I have supported legislative efforts to discourage people, particularly young people, from drinking any alcohol. I am proud to have sponsored an amendment two years ago which requires states to pass zero-tolerance laws that will make it illegal for persons under the age of 21 to drive a motor vehicle if they have a blood alcohol level greater than .02 percent. This legislation helps to save lives and sends a message to our nation's youth that drinking and driving is wrong, that it is a violation of the law, and that it will be appropriately punished.

Our children are besieged with media messages that create the impression that alcohol can help to solve life's problems, lead to popularity, and enhance athletic skills. These messages coupled with insufficient enforcement of laws prohibiting the consumption of alcohol by minors give our nation's youth the impression that it is okay for them to drink. This impression has deadly consequences. In the three leading causes of death for 15 to 24 year olds, accidents, homicides, and suicides, alcohol is a factor. Efforts to curb the sale of alcohol to minors have high payoffs in helping to prevent children from drinking and driving death or injury.

There is a link between alcohol consumption and increased violence and crime, and I believe that directing funding to programs to enforce underage drinking and sale-to-minors laws will have a positive effect on efforts to address juvenile crime. According to the Center on Addiction and Substance Abuse at Columbia University, on college campuses, 95 percent of violent crime is alcohol-related and in 90 percent of campus rapes that are reported, alcohol is a factor. 31.9 percent of youth under the age of 18 in long-term, state operated juvenile institutions were under the influence of alcohol at the time of their arrest. These statistics are frightening and they need to be addressed.

This amendment will send a clear message to states that the federal government recognizes that enforcement of underage drinking laws is an important priority and that we are willing to back that message up with funds to assist states in their efforts. It is not good enough to simply urge better enforcement. We must provide the resources.

In addition, Mr. President, I would like to say to my good friend, the Chairman of the Judiciary Committee, Senator HATCH, that I intend to work with him when S. 10, the Violent and Repeat Juvenile Offender Act of 1997, is being reauthorized and before the Senate in order to authorize funding for this program in the coming fiscal years.

I call on my colleagues to support this amendment which will help states and localities better enforce youth alcohol laws and protect our children.

AMENDMENT NO. 1003

On page 86, line 3 after ''Secretary of Commerce.'' insert the following:

SEC. 211. In addition to funds provided elsewhere in this Act for the National Telecommunications and Information Administration Information Infrastructure Grants program, $10,490,000 is available until expended: *Provided*, That this amount shall be offset proportionately by reductions in appropriations provided for the Department of Commerce in Title II of this Act, provided amounts provided: *Provided further*, That no

reductions shall be made from any appropriations made available in this Act for the National Oceanic and Atmospheric Administration, National Institute of Standards and Technology and National Telecommunications and Information Administration public broadcasting facilities, planning and construction.

AMENDMENT NO. 1004

On page 29 of the bill, line 2, after ''Center'' insert the following: '', of which $100,000 shall be available for a grant to Roberts County, South Dakota; and of which $900,000 shall be available for a grant to the South Dakota Division of Criminal Investigation for the procurement of equipment for law enforcement telecommunications, emergency communications, and the state forensic laboratory''.

AMENDMENT NO. 1005

Purpose: To improve the bill by amending section 305 to realign Guam and the Northern Mariana Islands with the United States Court of Appeals for the Twelfth Circuit)

On page 93, strike the matter between lines 14 and 15 and insert the following:

''Ninth ..... California, Nevada.'';

On page 93, strike the matter between lines 17 and 18 and insert the following:

''Twelfth ..... Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.''.

On page 94, strike lines 14 through 19 and insert the following:

''(1) is in California or Nevada is assigned as a circuit judge on the new ninth circuit;

(2) is in Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington is assigned as a circuit judge on the twelfth circuit; and''.

AMENDMENT NO. 1006

(Purpose: Sense of the Senate regarding half a century of service to U.S. taxpayer)

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING THE EXEMPLARY SERVICE OF JOHN J. R. BERG TO THE UNITED STATES.

Whereas, John H. R. Berg began his service to the United States Government working for the United States Army at the age of fifteen after fleeing Nazi persecution in Germany where his father died in the Auschwitz concentration camp; and,

Whereas, John H. R. Berg's dedication to the United States Government was further exhibited by his desire to become a United States citizen, a goal that was achieved in 1981, 35 years after he began his commendable service to the United States; and,

Whereas, since 1949, John H. R. Berg has been employed by the United States Embassy in Paris where he is currently the Chief of the Visitor's and Travel Unit, And, this year has supported over 10,700 official visitors, 500 conferences, and over 15,000 official and unofficial reservations; and,

Whereas, John H. R. Berg's reputation for ''accomplishing the impossible'' through his dedication, efficiency and knowledge has become legend in the Foreign Service; and,

Whereas, John H. R. Berg has just completed 50 years of outstanding service to the United States Government with the United States Department of State,

Therefore Be It *Resolved*, it is the Sense of the Senate that John H. R. Berg deserves the highest praise from the Congress for his steadfast devotion, caring leadership, and lifetime of service of the United States Government.

Mr. HARKIN. Mr. President it is my great pleasure to offer this sense of the Senate to recognize and commend John H.R. Berg for 50 years of service to the U.S. Government on behalf of myself and Senator WARNER. Mr. Berg's employment with the U.S. Government began at age 15 working for the U.S. Army in 1946. From July 1947 to February 1949 he worked with the American Graves Registration Command in Paris.

In July 1949, Mr. Berg began his employment with the U.S. Embassy in Paris. Currently, he is the chief of the visitors and travel unit in our Embassy in Paris. Currently, he is the chief of the visitors and travel unit in our Embassy in Paris. So far this year, as chief of the Embassy's travel and visitors office, Mr. Berg and his staff of three have supported over 10,700 official visitors, 500 conferences, and over 15,000 official and unofficial reservations. The position entails coordinating all travel, transportation, housing control rooms and airport formalities for visits and conferences. Mr. Berg's dedication, efficiency, and wide range of useful host government and private sector contacts have been invaluable to the Embassy and the U.S. Government. His support efforts, personal interest, and ability to accomplish the impossible have become legend in the Foreign Service and to those of us who know his work personally.

I know I speak for those who have worked with Mr. Berg when I say that he has devoted his life to providing dedicated, faithful, and loyal service to the U.S. Government. He willingly and cheerfully works long hours—evenings, weekends and holidays—to ensure that our visits are handled in the most skillful and efficient manner possible. And he has received five Department of State Meritorious Honor Awards for his outstanding work.

A little known fact about John Berg was that he was a stateless person at the beginning of his service to the U.S. Government. He was born in Germany in 1930, but lost his German citizenship in 1943 due to Nazi Jewish persecution. After his father was deported to Auschwitz, he and his mother with a small group of brave Jews, hid in Berlin from the Gestapo until the end of the war. The heroism they exhibited and the dangers they faced are documented in the book, ''The Last Jews of Berlin,'' by Leonard Gross. His father died in the concentration camp. And after World War II, John Berg moved to France where he began working for the American Government, and has now completed 50 years of service to the U.S. Government. For all his adult life, John Berg's most fervent desire was to become a U.S. citizen. That goal was realized, and he was sworn in as an American citizen in 1981.

Mr. President I cannot think of a better role model for those in the public sector. Therefore, I believe that John Berg deserves the absolute highest praise from the President and the Congress for his 50 years of dedicated service to the U.S. Government.

Mr. WARNER. Mr. President, I am privileged to join my friend from Iowa, Senator HARKIN, in putting in the Senate's recognition of John Berg—an institution himself.

His service to Americans was his life. No task was insurmountable; no task was performed with less than all-out dedication.

My most memorable among many trips to Paris was during the bicentennial of the Treaty of Paris in 1983. President Reagan had appointed me as his representative to the many events the French hosted to honor the first treaty to recognize, in 1783, a new Nation—the 13 colonies as the United States of America. John Berg was my aid-de-camp throughout that visit. I should add to that official visits to the 40th and 50th recognitions of D-day, June 6, 1944.

And so it goes for all of us in Congress as we salute John Berg. Well done, sir.

AMENDMENT NO. 1007

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

''The Administrative Office of the United States Courts, in consultation with the Judicial Conference, shall conduct a study of the average costs incurred in defending and presiding over federal capital cases from the initial appearance of the defendant through the final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees on Appropriations and Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, with constitutional requirements.''

'': *Provided Further*, That the Attorney General, shall review the practices of U.S. Attorneys' Offices and relevant investigating agencies in investigating and prosecuting federal capital cases, including before the initial appearance of the defendant through final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees on the Appropriations and Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, consistent with constitutional requirements, and outlining a protocol for the effective, fiscally responsible prosecution of federal capital cases''.

AMENDMENT NO. 1008

(Purpose: To express the sense of the Senate with respect to slamming)

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE WITH RESPECT TO SLAMMING.

(a) STATEMENT OF PURPOSE.—The purposes of this statement of the sense of the Senate are to—

(1) protect consumers from the fraudulent transfer of their phone service provider;

(2) allow the efficient prosecution of phone service providers who defraud consumers; and

(3) encourage an environment in which consumers can readily select the telephone service provider which best serves them.

(b) FINDINGS.—The Congress finds the following:

(1) As the telecommunications industry has moved toward competition in the long distance market, consumers have increasingly elected to change the company which

provides their long-distance phone service. As many as fifty million consumers now change their long distance provider annually.

(2) The fluid nature of the long distance market has also allowed an increasing number of fraudulent transfers to occur. Such transfers have been termed ''slamming'', which constitutes any practice that changes a consumer's long distance carrier without the consumer's knowledge or consent.

(3) Slamming is now the largest single consumer complaint received by the Common Carrier Bureau of the Federal Communications Commission. As many as one million consumers are fraudulently transferred annually to a telephone consumer which they have not chosen.

(4) The increased costs which consumers face as a result of these fraudulent switches threaten to rob consumers of the financial benefits created by a competitive marketplace.

(5) The Telecommunications Act of 1996 sought to combat this problem by directing that any revenues generated by a fraudulent transfer be payable to the company which the consumer has expressly chosen, not the fraudulent transferor.

(6) While the Federal Communications Commission has proposed and promulgated regulations on this subject, the Commission has not been able to effectively deter the practice of slamming due to a lack of prosecutorial resources as well as the difficulty of proving that a provider failed to obtain the consent of a consumer prior to acquiring that consumer as a new customer. Commission action to date has not adequately protected consumers.

(7) The majority of consumers who have been fraudulently denied the services of their chosen phone service vendor do not turn to the Federal Communications Commission for assistance. Indeed, section 258 of the Communications Act of 1934 directs that State commissions shall be able to enforce regulations mandating that the consent of a consumer be obtained prior to a switch of service.

(8) It is essential that Congress provide the consumer, local carriers, law enforcement, and consumer agencies with the ability to efficiently and effectively persecute those companies which slam consumers, thus providing a deterrent to all other firms which provide phone services.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Communications Commission should, within 12 months of the date of enactment of this Act, promulgate regulations, consistent with the Communications Act of 1934 which provide law enforcement officials dispositive evidence for use in the prosecution of fraudulent transfers of presubscribed costumers of long distance and local service; and

(2) the Senate should examine the issue of slamming and take appropriate legislative action in the 105th Congress to better protect consumers from unscrupulous practices including, but not limited to, mandating the recording and maintenance of evidence concerning the consent of the consumer to switch phone vendors, establishing higher civil fines for violations, and establishing a civil right of action against fraudulent providers, as well as criminal sanctions for repeated and willful instances of slamming.

AMENDMENT NO. 1009

(Purpose: To foster a safer elementary and secondary school environment for the nation's children through the support of community policing efforts)

On page 65, line 10, insert the following: ''Section 120. There shall be no restriction on the use of Public Safety and Community Policing Grants, authorized under title I of the 1994 Act, to support innovative programs to improve the safety of elementary and secondary school children and reduce crime on or near elementary or secondary school grounds.''

AMENDMENT NO. 1010

(Purpose: To limit the funds made available for the Office of the Under Secretary of Commerce for Intellectual Property Policy, if such office is established, and for other purposes)

On page 75, line 3, strike all beginning with ''$20,000,000,'' through line 8 and insert the following: ''such funds as are necessary, not to exceed 2 percent of projected annual revenues of the Patent and Trademark Office, shall be made available from the sum appropriated in this paragraph for the staffing, operation, and support of said office once a plan for this office has been submitted to the House and Senate Committees on Appropriations pursuant to section 605 of this Act.''.

AMENDMENT NO. 1011

At the appropriate place, add the following:

''Section 1701(b)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended to read as follows:

''(A) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year.''.

AMENDMENT NO. 1012

At the appropriate place, insert ''*Provided further,* That none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service may be used to accept, process, or forward to the Federal Bureau of Investigation any FD–258 fingerprint card, or any other means used to transmit fingerprints, for the purpose of conducting a criminal background check on any applicant for any benefit under the Immigration and Nationality Act unless the applicant's fingerprints have been taken by an office of the Immigration and Naturalization Service or by a law enforcement agency, which may collect a fee for the service of taking and forwarding the fingerprints.''

AMENDMENT NO. 1013

(Purpose: To strike a restriction concerning the transfer of certain personnel to the Office of Legislative Affairs or the Office of Public Affairs of the Department of Justice)

On page 2, lines 17 through 22, strike the colon on line 17 and all that follows through ''basis'' on line 22.

AMENDMENT NO. 1014

On page 125, strike lines 3-9.

AMENDMENT NO. 1015

(Purpose: To provide a waiver from certain immunization requirements for certain aliens entering the United States)

At the appropriate place, insert the following: WAIVER OF CERTAIN VACCINATION REQUIREMENTS

SEC. . (a) IN GENERAL.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following:

''(p) The Attorney General should exercise the waiver authority provided for in subsection (g)(2)(B) for any alien orphan applying for an IR3 or IR4 category visa.''.

Mr. MCCAIN. Mr. President, This is intended to resolve a potentially serious problem involving foreign children emigrating to the United States for the purpose of being united with their adoptive parents. Quite simply, the amendment urges the Attorney General to exercise that authority to waive vaccination requirements for certain categories of emigres that is part of current law.

Last year, my colleague from Arizona, Senator KYL, succeeded in getting passed legislation authorizing the Attorney General to waive the immunization requirements for legal aliens entering the country if medical, moral or religious considerations so warrant. Unfortunately, that authority has not been exercised, despite extenuating circumstances that clearly argue for such a waiver from the immunization requirement. No where is this failure to exercise that authority more damaging than in the area of foreign-borne orphans being adopted by U.S. citizens.

Neither Senator KYL nor I would argue that immigrants with serious communicable diseases should be allowed into the United States. What we are saying is that children whose medical conditions cannot be accurately determined without a more thorough examination than can be administered in their home country should not be subjected to vaccinations that may trigger unforeseen reactions, for instance, from allergies to a specific serum. Additionally, other medical conditions may exist that make immunization at a specific time unadvisable, as would be the case with a child suffering from influenza. All this amendment does is tell the Attorney General to do what common sense dictates should be done anyway: not subject children to vaccinations to which their systems may not be immediately adaptable.

Mr. President, I urge my colleagues to support this amendment. It would do nothing that could pose a health risk to the American public; it only eliminates the risk to children, often from countries with far more primitive health care than is available here, of immunizations if their individual medical conditions indicate such treatment would pose a serious risk to the health of the child.

AMENDMENT NO. 1016

SEC. . The second proviso of the second paragraph under the heading ''OFFICE OF THE CHIEF SIGNAL OFFICER.'' in the Act entitled ''An Act Making appropriations for the support of the Regular and Volunteer Army for the fiscal year ending June thirtieth, nineteen hundred and one'', approved May 26, 1900 (31 Stat. 206; chapter 586; 47 U.S.C. 17), is repealed.

AMENDMENT NO. 1017

(Purpose: To exclude from the United States aliens who have been involved in extrajudicial and political killings in Haiti)

At the appropriate place, insert the following:

SEC. . EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE BEEN INVOLVED IN EXTRAJUDICIAL AND POLITICAL KILLINGS IN HAITI.

(a) GROUNDS FOR EXCLUSION.—None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmery, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergea, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was a member of the Haitian presidential security unit who has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Pastor Antoine Leroy and Jacques Fleurival, or who was suspended by President Preval for his involvement in or knowledge of the Leroy and Fleurival killings on August 20, 1996;

(4) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergea, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(5) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(6) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term ''appropriate congressional committees'' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

Mr. DEWINE. Mr. President, my amendment excludes Haitians from the U.S. who have been involved in extrajudicial and political killings in Haiti. Specifically, it does this by denying funds for the issuance of visas to these persons.

There have been numerous cases of politically-motivated assassinations in Haiti. Some of these extrajudicial killings occurred while former President Jean-Bertrand Aristide was in exile. Many others took place after he returned to power. Unfortunately, these killings have continued after Mr. Aristide left office and Rene Preval became President.

The Haitian Government has assigned over eighty extrajudicial and political killing cases to the Special Investigative Unit. The Haitian Government claims that they have fired several government employees who are suspects in these killings.

But the sad fact remains that to date, no one has been convicted for any of these assassinations. Simply stated, there has been no substantial progress in these investigations.

We need to encourage the Haitians to bring these killers to justice. We need to let them know that these killings cannot be tolerated.

My amendment denies funding for the issuance of visas to those who have been credibly alleged to have ordered, carried out, materially assisted, or sought to conceal these extrajudicial and political killings. The amendment exempts persons for medical reasons, or if they have cooperated fully with the investigation of these political murders.

The legislation also includes a reporting requirement. The Administration would be directed to submit, to the appropriate congressional committees, (1) a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings; (2) a list of those refused entry to the United States as a result of this provision; and (3) a report on this matter, to be submitted once each year, until such time as the Government of Haiti has completed the investigation of these extrajudicial and political killings and has prosecuted those implicated in these murders.

It is an unfortunate reality that political violence has been a way of life in Haiti. Too many Haitians have died due to acts of political violence. The adoption of this amendment will not solve their problems overnight. But it can help. I believe this legislation sends a strong signal that violence must not be used as a political tool in Haiti. It also sends a message to the Haitians that we will vigorously support those who want to end political violence and create a lasting society of peace and prosperity in Haiti.

Mr. President, I urge the adoption of this amendment.

AMENDMENT NO. 1018

(Purpose: To improve the bill)

On page 114, strike lines 14–23.

AMENDMENT NO. 1019

(Purpose: To delay the effective date of the amendments made by section 233 of the Antiterrorism and Effective Death Penalty Act of 1996)

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

SEC. 1 . Section 233(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1245) is amended by striking ''1 year after the date of enactment of this Act'' and inserting ''October 1, 1999''.

AMENDMENT NO. 1020

On page 139, after line 13 insert the following:

''GAMBLING IMPACT STUDY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Gambling Impact Study Commission, $1,000,000, to remain available until expended: Provided, That funds made available for this purpose shall be taken from funds made available on page 23, line 21.''

AMENDMENT NO. 1021

At the appropriate place in the bill, insert the following: *Provided further*, that not to exceed $2,000,000 may be made available for the 1999 Women's World Cup Organizing Committee cultural exchange and exchange related activities associated with the 1999 Women's World Cup.''

Mr. GREGG. I ask unanimous consent that Senator KERRY of Massachusetts and Senator FEINSTEIN be added as cosponsors to Senator STEVEN's USIA amendment.

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

Mr. GREGG. Mr. President, at this point I wish to thank, obviously, my staff and the minority staff for the extraordinary amount of time and energy they have put into this bill. They have been here all day and have done an incredible amount of work in an extremely complex situation, I would say, on a number of occasions. How they sort it all out, I am not sure. But they have and they have done it beautifully. I thank them for their energies. I thank the ranking member for all his time and patience in this exercise, which has been reasonably complicated but very successful as a result of all this.

Mr. HOLLINGS. Mr. President, I am really grateful to the distinguished chairman, the Senator from New Hampshire, for his leadership. His staff has been very professional and cooperative. It is truly a bipartisan measure. It has been a privilege and pleasure to work with him. Obviously, my staff has

been working around the clock, and I am really indebted to them. I thank the distinguished chairman.

Mr. GREGG. I thank the Senator for all his work.

MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

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

PRIVILEGE OF THE FLOOR

Mrs. BOXER. Mr. President, in behalf of Mr. BINGAMAN, I ask unanimous consent that privileges of the floor be granted to Dr. Robert Simon on detail from the Department of Energy to his staff, during the pendency of Senate Resolution 98 or any votes occurring thereupon.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 23, 1997, the Federal debt stood at $5,367,622,941,689.53. (Five trillion, three hundred sixty-seven billion, six hundred twenty-two million, nine hundred forty-one thousand, six hundred eighty-nine dollars and fifty-three cents.)

One year ago, July 23, 1996, the Federal debt stood at $5,171,664,000,000. (Five trillion, one hundred seventy-one billion, six hundred sixty-four million.)

Five years ago, July 23, 1992, the Federal debt stood at $3,988,415,000,000. (Three trillion, nine hundred eighty-eight billion, four hundred fifteen million.)

Ten years ago, July 23, 1987, the Federal debt stood at $2,300,098,000,000. (Two trillion, three hundred billion, ninety-eight million.)

Fifteen years ago, July 23, 1982, the Federal debt stood at $1,086,341,000,000 (One trillion, eighty-six billion, three hundred forty-one million) which reflects a debt increase of more than $4 trillion—$4,281,281,941,689.53 (Four trillion, two hundred eighty-one billion, two hundred eighty-one million, nine hundred forty-one thousand, six hundred eighty-nine dollars and fifty-three cents) during the past 15 years.

APPROVAL OF GEORGE TENET AS DIRECTOR OF CENTRAL INTELLIGENCE

Mr. BYRD. Mr. President, on Thursday evening, July 10, 1997, the Senate confirmed the nomination of George J. Tenet, of Maryland, to be the Director of Central Intelligence. I am delighted that the Senate has taken this action, based on the unanimous recommendation of the Senate Intelligence Committee.

George Tenet is well known to many members of the Senate, as he served with distinction as a staff member, and then Staff Director of the Senate Intelligence Committee during the service of Senator David Boren, of Oklahoma, when he was Chairman of that Committee. When Senator Boren retired, to take up the post of President of the University of Oklahoma, George became the Assistant to the President for Intelligence matters on the staff of the National Security Council, and served with great distinction in that capacity. As a result of that service, he was asked by Mr. John Deutsch to be the Deputy Director of Central Intelligence when Mr. Deutsch was appointed Director, and he has served as the Acting Director since January of this year when Mr. Deutsch returned to the private sector. Mr. Tenet has been praised on the floor by the current leadership of the Senate Intelligence Committee, by the Chairman, the distinguished Senator from Alabama, Mr. SHELBY, and the Ranking Democrat, the distinguished Senator from Nebraska, Mr. KERREY. They have praised Mr. Tenet's capabilities, judgment and character. I wish to express my own confidence in his leadership and I believe he has the capacity to bring the agency out of the unfortunate period that it has recently experienced which was tarnished by espionage scandals, and too rapid a turnover in the Office of the Director. He faces the challenge of bringing morale up, as well as restoring public and Congressional confidence in the intelligence organization of the nation. It is his responsibility to ensure that the Intelligence Community performs on the basis of the highest standards of integrity, and that the tremendous analytical, technical, and personnel resources that the community possesses, without rival in the world, are brought to bear on the often dangerous and difficult targets and areas of concern that constitute the intelligence agenda of the nation.

Mr. Tenet is already known as a strong leader with clear focus and a broad vision. I do not believe there is any recent Director of Central Intelligence that I have dealt with that brings as strong a knowledge of and constituency in the Senate as he enjoys. Intelligence in the confusing and shifting world of this post-cold war era is vital to both branches of the national government, and to be successful must enjoy the strong support of both of them. George is uniquely qualified to bring about a working consensus on the priorities, activities and budget of the intelligence community. He enjoys an extraordinarily deep reservoir of support here in the Senate, and I believe in the White House and the Intelligence Community as well. He is an outstanding choice, and the President is to be commended on his selection. I look forward to working with him to ensure that the highly dedicated, talented and courageous individuals who serve the nation silently day and night across the globe enjoy the support that they need to carry out their duties. I wish him a long, fruitful and rewarding tenure as our new Director of Central Intelligence.

CNN'S COVERAGE OF THE SENATE CAMPAIGN FINANCE HEARINGS

Mr. CRAIG. Mr. President, Cable News Network announced this week that it would provide live television coverage of the Senate Governmental Affairs Committee hearings on campaign finance activities. But, Mr. President, their decision was based only on the fact that former Republican National Committee chairman, Haley Barbour, is scheduled to testify.

CNN has been suspiciously absent in its live coverage of the hearings, only allowing its viewers to see the opening statements of the chairman and the ranking member during the past 2 weeks of the hearings.

As I understand it, CNN based its decision to provide live coverage of Mr. Barbour's testimony on the judgment that he has celebrity status. Or, as CNN's own Washington Bureau chief, Frank Sesno, called them yesterday, ''major players''.

That is a decision more fitting of the program ''Entertainment Tonight'', instead of a network which prides itself on being the world's leader of news.

I am certain that I am not the only one disappointed by CNN's decision to forgo live coverage of the hearings. In fact, on CNN's own Internet web page, an overwhelming number of CNN's viewers are distressed over the network's failure to provide live coverage.

One viewer wrote, and I quote:

> Although I am very pleased that you are carrying the campaign finance hearings through your Web site, I must say after all of the interminable O.J. hearings you carried live on CNN, why on God's earth aren't you carrying the hearings as well? I am very disappointed.

It was signed by Jim Merrick on July 16.

Mr. President, there has been such sufficient controversy over the CNN's lack of live coverage of the hearings—and even the lack of regular coverage of the hearings by the other television networks—that CNN devoted a substantial portion of its program ''Inside Politics'' on Tuesday, to discuss the uproar.

In a roundtable discussion, where journalists interview each other about what a great job they're doing, CNN's Judy Woodruff asked ABC's Hal Bruno about the difference of these hearings as compared to the Watergate and Iran-Contra hearings. Hal Bruno replied, and I quote:

> Government was at a standstill in Washington as a result of Watergate and the whole country was immersed in it. And the same was true to a lesser degree with Iran-Contra. These were major stories of revelations of criminal wrongdoing.

Mr. President, Hal Bruno's comment is an outrage.

For one, the country was immersed in these events because the television networks were carrying the hearings live.

And furthermore, the campaign finance hearings have uncovered much more serious charges and allegations. They include: Espionage, foreign influence peddling, campaign corruption and even money laundering. Just look at this summary by the staff of the Governmental Affairs Committee on what has been revealed so far during 2 weeks of hearings.

Hal Bruno's statement is ludicrous, and CNN's lack of live coverage of the hearings proves that they are ignoring a major news story.

Mr. President, I have written a letter to CNN president, Tom Johnson, and CNN Washington Bureau chief, Frank Sesno, expressing my disappointment and anger over their decision. This is the same network that covered endless hours of the O.J. Simpson murder trial—a news event that affected relatively few Americans. I have not yet received a reply from my letter, and I doubt I will.

Mr. President, I ask for unanimous consent to have printed in the RECORD the summary of highlights of the first 2 weeks of hearings by the Governmental Affairs hearings, and my letter to CNN's president and Washington Bureau chief.

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

U.S. SENATE,
REPUBLICAN POLICY COMMITTEE,
Washington, DC, July 22, 1997.

Mr. TOM JOHNSON,
President, CNN, Atlanta, GA.

DEAR MR. JOHNSON: I am disappointed over CNN's unwillingness to provide live, gavel-to-gavel coverage of the Senate Governmental Affairs hearings on campaign finance activities. If you had been carrying the hearings, your viewers would have been able to watch the testimony of witnesses who gave compelling evidence of criminal wrongdoing by foreign donors to the Democratic party during the 1996 elections. The result of such testimony even prompted a key Democrat on the committee, Senator Joseph Lieberman of Connecticut, to publicly acknowledge that there was a Chinese government plan to influence the elections. Unfortunately, CNN viewers were not given the opportunity to draw their own conclusions.

Now, I have come to learn that your network is planning to provide live coverage of this week's scheduled testimony of former Republican National Committee chairman, Haley Barbour. Unlike previous witnesses, who linked one Democratic fundraiser to possible charges of espionage and illegal influence buying and peddling, Mr. Barbour has not been charged with any crime nor has he broken any laws. Why does CNN deem Mr. Barbour's testimony so important as to merit live coverage? Is your network ''celebrity watching''—like ''Entertainment Tonight''?

What can be said about CNN's decision to only provide live coverage of Mr. Barbour's testimony is media bias at best, and tabloid journalism at worst. Your intensive coverage of the O.J. Simpson trial suggests that the later is more accurate. It's apparent that CNN has already decided what the public is interested in watching instead of the public making that decision for themselves.

Sincerely,

LARRY E. CRAIG,
Chairman.

SUMMARY OF HIGHLIGHTS OF TESTIMONY OF FIRST TWO WEEKS OF HEARINGS BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS INTO 1996 CAMPAIGN FINANCE ABUSES

DNC Finance Director Richard Sullivan acknowledged that the DNC's process for vetting contributions had ''atrophied,'' and that the Republican Party's system for vetting contributions was ''much more systematic, complex and thorough'' than the Democratic Party's system.

The Committee learned that John Huang was pushed for his job at the DNC by a foreign corporation and its head, James Riady, a close friend of President Clinton.

The Committee learned that Huang was also pushed for his fund-raising position by senior White House officials, like Harold Ickes, but he was not hired by the DNC until President Clinton himself pushed for Huang's hiring.

The Committee revealed several instances of foreign contributions being laundered into the DNC:

(1) Yogesh Gandhi made a $325,000 contribution to the DNC at an event at the Sheraton-Carlton Hotel in Washington in 1996 and shortly thereafter received two $250,000 wire transfers from a Japanese businessman named Tanaka to cover the contribution. This was Gandhi's first US political contribution and the $325,000 represented more than half the funds raised by the DNC at the Sheraton-Carlton event.

(2) Johnny Chung contributed $50,000 to the DNC in March 1996, at a time when he had less than $10,000 in his account. A few days after making the contribution Chung received a $50,000 wire transfer from the Bank of China. Soon after making the $50,000 contribution from these funds, Chung attended the President's weekly radio address with 5 visiting Chinese officials and guests.

(3) In 1992 John Huang contributed $50,000 on behalf of Hip Hing Holdings, a Riady-owned company in Los Angeles, and sought reimbursement for the contribution from Lippo Group in Indonesia.

The Committee also revealed that Chinese arms merchant Wang Jun, son of a prominent Communist official whose arms company has been accused of selling cruise missiles to Iran, attended an event with the President after he contributed $50,000 to the DNC through Ernest Green of Lehman Brothers.

The Committee learned that Gregory Loutschansky, a former Soviet citizen living in Tel Aviv who is reputed to be an international gun-runner and drug-smuggler, was invited by the DNC to an October 1995 dinner with the President, but was denied a visa by the State Department to enter the US.

The Committee learned that Roger Tamraz, a US citizen and major DNC donor, was invited by the DNC to meet with the Vice President, but the invitation was withdrawn after the Vice President's staff objected because Tamraz had ''a shady reputation.'' Despite the fact that Tamraz was deemed unacceptable to meet the Vice President, the DNC invited Tamraz to four subsequent events with the President.

The Committee learned that President Clinton's friend Charlie Trie made a $50,000 contribution to the DNC in June 1995 and raised large amounts for the Presidential Legal Expense Trust, even though a financial disclosure form he filled out after securing a presidential appointment showed he earned only $60,000 that year.

The Committee learned that John Huang had worked for Lippo Bank in Los Angeles, but the CEO of the Bank did not know what Huang did in his office.

The Committee learned that Lippo Group, run by the Riady family, which employed Huang, had over the past few years become a major business partner with China Resources, a trading company wholly owned by the Government of the People's Republic of China, which has reportedly served as an intelligence-collection front for China.

The Committee learned that Huang was given a political appointment in the Commerce Department, but his boss, Commerce Under secretary Jeffrey Garten found Huang totally unqualified for the position and limited his activities to administrative duties.

The Committee learned that Huang was ''walled off'' from handling China trade policy and was allowed to handle only some matters related to Taiwan.

The Committee learned that despite being ''walled off'' from China policy, Huang was given intelligence briefings on China.

The Committee learned that while he was at the Commerce Department, Huang had a Top Secret security clearance and received 37 intelligence briefings, at which he was shown 10 to 15 intelligence reports, meaning that he saw between 370 and 550 pieces of intelligence.

The Committee learned that of the pieces of intelligence shown to Huang, he kept possession of 12 classified documents until the end of his tenure at the Commerce Department.

The Committee learned that while he served as a relatively low-level political functionary at the Commerce Department, Huang made at least 67 visits to the White House, often meeting with senior officials on US trade policy.

The Committee learned that while he worked at the Commerce Department, Huang routinely and regularly used the office of Stephens Inc., a Little rock-based company with an office across the street from the Commerce Department, to send and receive phone calls, faxes, and packages, which a Stephens employee testified no other non-Stephens employee did.

The Committee learned that Huang had over 400 contacts with Lippo bank and Lippo group employees and associates while he worked at the Commerce Department, was receiving classified information, attending White House briefings, and using the Stephens Inc. office to send and receive messages and faxes.

The Committee learned that Huang did make personal calls from his Commerce Department phone, indicating that he was not using the Stephens office to avoid using his official phone for personal matters.

The Committee learned that while he served at the Commerce Department, Huang made six visits to the Chinese Embassy and had three other contacts with Chinese Embassy officials, even though he had been ''walled off'' from anything having to do with China.

The Committee learned that while he served at the Commerce Department, Huang may have illegally solicited several large contributions for the DNC, for which his wife Jane was listed as the solicitor by the DNC, from several individuals.

July 22, 1997.

Mr. TOM JOHNSON,
President, CNN, Atlanta, GA.

DEAR MR. JOHNSON: I am disappointed over CNN's unwillingness to provide live, gavel-to-gavel coverage of the Senate Governmental Affairs hearings on campaign finance activities. If you had been carrying the hearings, your viewers would have been able to

watch the testimony of witnesses who gave compelling evidence of criminal wrongdoing by foreign donors to the Democratic party during the 1996 elections. The result of such testimony even prompted a key Democrat on the committee, Senator Joseph Lieberman of Connecticut, to publicly acknowledge that there was a Chinese government plan to influence the elections. Unfortunately, CNN viewers were not given the opportunity to draw their own conclusions.

Now, I have come to learn that your network is planning to provide live coverage of this week's scheduled testimony of former Republican National Committee chairman, Haley Barbour. Unlike previous witnesses, who linked one Democratic fundraiser to possible charges of espionage and illegal influence buying and peddling, Mr. Barbour has not been charged with any crime nor has he broken any laws. Why does CNN deem Mr. Barbour's testimony so important as to merit live coverage? Is your network ''celebrity watching''—like ''Entertainment Tonight''?

What can be said about CNN's decision to only provide live coverage of Mr. Barbour's testimony is media bias at best, and tabloid journalism at worst. Your intensive coverage of the O.J. Simpson trial suggests that the later is more accurate. It's apparent that CNN has already decided what the public is interested in watching instead of the public making that decision for themselves.

Sincerely,

LARRY E. CRAIG,
Chairman.

HONORING THE SUETTERLINS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Catherine and Martin Suetterlin of St. Louis County, MO, who on September 27, 1997, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Suetterlins' commitment to the principles and values of their marriage deserves to be saluted and recognized.

NATIONAL SAFE PLACE WEEK

Mr. FORD. Mr. President, I rise today in support of a Senate resolution submitted by the distinguished Senator from Idaho. Senate Resolution 96 sponsored by Senator LARRY CRAIG would designate the week of March 15 through March 21, 1998 as ''National Safe Place Week.''

Project Safe Place is a creative approach to serving youth and families in crisis. I am particularly pleased to cosponsor this resolution on behalf of the first program started in my home State of Kentucky. Project Safe Place began in a firehouse in Louisville, KY in 1983, providing a safe haven from various negative influences such as child abuse, substance abuse, and crime. Safe Places put distressed children and families in touch with the resources they need to keep them safe. This assistance often comes in the form of counseling and a safe and secure place to stay.

Today, the Safe Place Program has spread to 34 States across the country. More than 6,000 business locations displaying the black and yellow Safe Place sign indicating that those in need can seek help from those inside.

The Safe Place Program exemplifies the best in our local communities. Project Safe Place is about community businesses and volunteers working together to help the most vulnerable in our society. It is essential that we bring this valuable program to every community, because those in need feel more comfortable in turning to resources in their own neighborhoods and communities.

By designating March 15 through March 21, 1998 as ''National Safe Place Week,'' we not only bring public awareness to this outstanding program, but recognize those volunteers and businesses who give so much to make our communities a truly safe place. I urge my colleagues to lend their names to this worthwhile legislation.

RETIREMENT OF CAROLE STEVENSON

Mr. FORD. Mr. President, I would like to say a few words about a dedicated Senate employee, Carole Stevenson, who is retiring after 30 years of Federal service. Carole worked for me when I served as chairman of the Rules Committee. She currently works on the staff of our colleague, TIM JOHNSON.

Carole held a number of jobs as she went about acquiring her 30 years of service. She worked for Senators Capehart and Kefauver in the fifties, the Architect of the Capitol and the executive branch in the sixties, and the Office of Technology Assessment in the mid-seventies. She even took off a decade to have and raise a family.

Carole joined the staff of the Senate Rules Committee in 1977 and stayed for 20 years. She held a variety of jobs, moving from front office receptionist, to room reservationist, to secretary and staff assistant in the Technical Services section of the Rules Committee.

To put it simply, Carole was a hard worker who took pride in her work. She always wanted to do a good job for her employer, and she did. She loves the Senate, so she did her best.

I want to personally thank Carole for her service to the Senate. Her many friends in this great institution will miss her. All of us wish her well in her retirement.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary. (The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF DRAFT LEGISLATION ENTITLED ''THE IMMIGRATION REFORM TRANSITION ACT OF 1997''—MESSAGE FROM THE PRESIDENT—PM 55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am pleased to submit for your immediate consideration and enactment the ''Immigration Reform Transition Act of 1997,'' which is accompanied by a section-by-section analysis. This legislative proposal is designed to ensure that the complete transition to the new ''cancellation of removal'' (formerly ''suspension of deportation'') provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA; Public Law 104–208) can be accomplished in a fair and equitable manner consistent with our law enforcement needs and foreign policy interests.

This legislative proposal would aid the transition to IIRIRA's new cancellation of removal rules and prevent the unfairness of applying those rules to cases pending before April 1, 1997, the effective date of the new rules. It would also recognize the special circumstances of certain Central Americans who entered the United States in the 1980s in response to civil war and political persecution. The Nicaraguan Review Program, under successive Administrations from 1985 to 1995, protected roughly 40,000 Nicaraguans from deportation while their cases were under review. During this time the *American Baptist Churches v. Thornburgh* (ABC) litigation resulted in a 1990 court settlement, which protected roughly 190,000 Salvadorans and 50,000 Guatemalans. Other Central Americans have been unable to obtain a decision on their asylum applications for many years. Absent this legislative proposal, many of these individuals would be denied protection from deportation under IIRIRA's new cancellation of removal rules. Such a result would unduly harm stable families and communities here in the United States and undermine our strong interests in facilitating the development of peace and democracy in Central America.

This legislative proposal would delay the effect of IIRIRA's new provisions so that immigration cases pending before April 1, 1997, will continue to be considered and decided under the old suspension of deportation rules as they existed prior to that date. IIRIRA'S new cancellation of removal rules would generally apply to cases commenced on or after April 1, 1997. This proposal dictates no particular outcome of any case. Every application for suspension of deportation or cancellation of removal must still be considered on a case-by-case basis. The proposal simply restores a fair opportunity to those whose cases have long been in the system or have other demonstrable equities.

In addition to continuing to apply the old standards to old cases, this legislative proposal would exempt such cases from IIRIRA's annual cap of 4,000 cancellations of removal. It would also exempt from the cap cases of battered spouses and children who otherwise receive such cancellation.

The proposal also guarantees that the cancellation of removal proceedings of certain individuals covered by the 1990 ABC litigation settlement and certain other Central Americans with long-pending asylum claims will be governed by the pre-IIRIRA substantive standard of 7 years continuous physical presence and extreme hardship. It would further exempt those same individuals from IIRIRA's cap. Finally, individuals affected by the legislation whose time has lapsed for reopening their cases following a removal order would be granted 180 days in which to do so.

My Administration is committed to working with the Congress to enact this legislation. If, however, we are unsuccessful in this goal, I am prepared to examine any available administrative options for granting relief to this class of immigrants. These options could include a grant of Deferred Enforced Departure for certain classes of individuals who would qualify for relief from deportation under this legislative proposal. Prompt legislative action on my proposal would ensure a smooth transition to the full implementation of IIRIRA and prevent harsh and avoidable results.

I urge the Congress to give this legislative proposal prompt and favorable consideration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 24, 1997.*

MESSAGES FROM THE HOUSE

At 2:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, 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. 2169. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 2169. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

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–2591. A communication from the Assistant Secretary of the Treasury (Legislative Affairs and Public Liaison), transmitting, pursuant to law, the report of the Chairman of the National Advisory Council on International Monetary and Financial Policies for fiscal year 1992; to the Committee on Foreign Relations.

EC–2592. A communication from the Deputy Executive Director and Chief Operating Officer of the Pension Guaranty Corporation, transmitting, pursuant to law, a rule entitled ''Disclosure of Premium-Related Information'' (RIN1212–AA66) received on July 22, 1997; to the Committee on Labor and Human Resources.

EC–2593. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear, transmitting, pursuant to law, a rule received on July 21, 1997; to the Committee on Environment and Public Works.

EC–2594. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, eleven rules received on July 22, 1997; to the Committee on Environment and Public Works.

EC–2595. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving exports to Brazil; to the Committee on Banking, Housing, and Urban Affairs.

EC–2596. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report under the Full Employment and Balanced Growth Act of 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC–2597. A communication from the Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, a rule entitled ''Phase Two Recommendations of Task Force on Disclosure Simplification'' (RIN3235–AG80, 33–7431) received on July 21, 1997; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special report entitled ''Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1998'' (Rept. No. 105–57)

By Mr. SPECTER, from the Committee on Appropriations, without amendment:

S. 1061. An original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105–58).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1000. A bill to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the ''Robert J. Dole United States Courthouse''.

S. 1043. A bill to designate the United States courthouse under construction at the corner of Las Vegas Boulevard and Clark Avenue in Las Vegas, Nevada, as the ''Lloyd D. George United States Courthouse''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted on July 23, 1997:

By Mr. THURMOND, from the Committee on Armed Services:

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. John N. Abrams, 5774.
Maj. Gen. Roger G. Thompson, Jr., 5744.
Maj. Gen. Michael S. Davison, Jr., 7141.

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral

Rear Adm. (lh) Thomas J. Hill, 0703.
Rear Adm. (lh) Douglas L. Johnson, 9514.
Rear Adm. (lh) Jan H. Nyboer, 8579.
Rear Adm. (lh) Paul V. Quinn, 8574.

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) John A. Gauss, 5672.

The following Air Force National Guard of the United States officer for appointment in the Reserve of the Air Force, to the grade indicated, under title 10, United States Code, section 12203:

To be brigadier general

Col. Tommy L. Daniels, 1724.

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William J. Begert, 2790.
Maj. Gen. Lance W. Lord, 1926.

The following-named officers for appointment as the Judge Advocate General* and the Assistant Judge Advocate General**, U.S. Army and for appointment to the grade indicated under title 10, United States Code, section 3037:

To be major general

Brig. Gen. Walter B. Huffman, 7206*.
Brig. Gen. John D. Altenburg, Jr., 6387**.

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Montgomery C. Meigs, 3239.

The following-named officers for appointment in the Regular Army to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Edwin J. Arnold, Jr., 8222.
Col. John R. Batiste, 9665.
Col. Buford C. Blount, III, 5012.
Col. Steven W. Boutelle, 1030.
Col. John S. Brown, 2041.
Col. Edward T. Buckley, Jr., 2325.
Col. Eddie Cain, 1695.
Col. Kevin T. Campbell, 6308.
Col. Jonathan H. Cofer, 8459.
Col. Bantz J. Craddock, 7782.
Col. Keith W. Dayton, 7231.
Col. Barbara Doornink, 2221.
Col. Paul D. Eaton, 1993.
Col. Jeanette K. Edmunds, 9426.
Col. Karl W. Eikenberry, 5197.
Col. Dean R. Ertwine, 8082.
Col. Steven W. Flohr, 7939.
Col. Nicholas P. Grant, 1178.
Col. Stanley E. Green, 4130.
Col. Craig D. Hackett, 5451.
Col. Franklin L. Hagenbeck, 3956.
Col. Hubert L. Hartsell, 8996.
Col. George A. Higgins, 7049.
Col. James C. Hylton, 8014.
Col. Gene M. LaCoste, 2941.
Col. Michael D. Maples, 9508.
Col. Philip M. Mattox, 4434.
Col. Dee A. McWilliams, 1427.
Col. Thomas F. Metz, 5686.
Col. Daniel G. Mongeon, 4804.
Col. William E. Mortensen, 1064.
Col. Raymond T. Odierno, 8425.
Col. Eric T. Olson, 5130.
Col. James W. Parker, 8655.
Col. Ricardo S. Sanchez, 9260.
Col. John R. Schmader, 1780.
Col. Gary D. Speer, 7286.
Col. Mitchell H. Stevenson, 3914.
Col. Carl A. Strock, 1502.
Col. Charles H. Swannack, Jr., 8239.
Col. Hugh B. Tant, III, 4312.
Col. Terry L. Tucker, 6846.
Col. William G. Webster, Jr., 9468.
Col. John R. Wood, 0518.

(The above nominations were reported with the recommendation that they be confirmed.)

The following executive reports of committees were submitted on July 24, 1997:

By Mr. THURMOND, from the Committee on Armed Services:

John J. Hamre, of South Dakota, to be Deputy Secretay of Defense.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Jamie Rappaport Clark, of Maryland, to be Director of the United States Fish and Wildlife Service.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. HATCH, from the Committee on the Judiciary:

Richrd Thomas White, of Michigan, to be a member of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 1999.

Calvin D. Buchanan, of Mississippi, to be U.S. attorney for the Northern District of Mississippi for the term of 4 years.

Thomas E. Scott, of Florida, to be U.S. attorney for the Southern District of Florida for the term of 4 years.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 1061. An original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. D'AMATO (for himself and Mr. SARBANES):

S. 1062. A bill to authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER:

S. 1063. A bill to suspend temporarily the duty on KN001 (a hydrochloride); to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1064. A bill to amend the Alaska National Interest Lands Conservation Act to more effectively manage visitor service and fishing activity in Glacier Bay National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 1065. A bill to amend the Ethics in Government Act with respect to the appointment of an independent counsel; read the first time.

By Mr. WELLSTONE (for himself, Mr. GRASSLEY, Mr. KERREY, Mr. JOHNSON, Mr. DASCHLE, and Mr. CONRAD):

S. 1066. A bill to amend the Internal Revenue Code of 1986 to allow the alcohol fuels credit to be allocated to patrons of a cooperative in certain cases; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. LEAHY, Ms. MOSELEY-BRAUN, Mr. WELLSTONE, Ms. LANDRIEU, Mr. KENNEDY, and Mr. HARKIN):

S. 1067. A bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. D'AMATO (for himself and Mr. SARBANES):

S. Con. Res. 42. Concurrent resolution to authorize the use of the rotunda of the Capitol for a congressional ceremony honoring Ecumenical Patriarch Bartholomew; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO (for himself and Mr. SARBANES):

S. 1062. A bill to authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CONGRESSIONAL GOLD MEDAL FOR ECUMENICAL PATRIARCH BARTHOLOMEW

Mr. D'AMATO. Mr. President, today I join my friend and colleague from the Banking Committee, Senator SARBANES, to offer a bill that would authorize a congressional gold medal in recognition of the tremendous leadership role—in interfaith relations, international affairs, the promotion of global environmental protection, and the defense of human rights worldwide—of his all holiness Ecumenical Patriarch Bartholomew of Constantinople.

In addition, we are submitting a concurrent resolution providing for the use of the rotunda of the Capitol for a ceremony honoring Patriarch Bartholomew on his visit to the United States in late October of this year.

The Ecumenical Patriarch Bartholomew is the 270th successor of the nearly 2,000 year old Orthodox Christian Church founded in 36 A.D.

As the spiritual leader of the Orthodox Christian Church, Patriarch Bartholomew is the voice for nearly 300 million followers around the world—5 million of which live in the United States and are of Greek, Russian, Ukrainian, and Serbian descent. The contributions of these Americans to our history and culture exemplify the values, ideals, and dreams of this great Nation.

A champion of religious unity and cooperation, Patriarch Bartholomew is working to promote interfaith dialog between the Orthodox Church and the Roman Catholic Church, leading Protestant denominations, Muslim leaders, and various faiths of America's multiethnic diversity.

Patriarch Bartholomew has also sought to strengthen the bonds between Judaism and Orthodox Christianity. In 1994, he worked side by side with Rabbi David Schneier and the Appeal of Conscience Foundation to cosponsor the Peace and Tolerance Conference, bringing together Christians, Jews, and Muslims for human and religious freedom.

As a citizen of Turkey, Patriarch Bartholomew is deeply concerned about the need to sustain the cause of peace. He has been a dynamic leader in efforts to ease Greek-Turkish tensions and to promote international cooperation, adherence to international law, and respect for the human rights of victims of aggression.

The impact of Patriarch Bartholomew's compassion is far-reaching. In the war-torn countries of the Balkans,

Patriarch Bartholomew has helped to advance reconciliation among Catholic, Muslim, and Orthodox communities.

Mr. President, Patriarch Bartholomew also cares very deeply for the environmental legacy we will one day leave to our children. Together with global leaders, he convened an international environmental symposium emphasizing the health and well-being of the world's oceans. The Patriarch is also a cosponsor of an annual conference addressing the protection of our global environment.

Born in Turkey in 1940, Patriarch Bartholomew has selflessly dedicated his life to religious service. He is a graduate of the renowned Theological School of Halki, which was forced to close by the Turkish Government in 1971. This school must re-open as a basic matter of religious freedom.

Patriarch Bartholomew has also received numerous honorary doctorates and academic honors from institutes and universities all across the globe.

Mr. President, in October of this year, Patriarch Bartholomew will visit the United States to offer his spiritual message of unity, compassion, and brotherhood. It is our belief that Congress honor the work of this great leader in recognition of his outstanding and enduring contributions to: the freedom of the world's religions, world peace, conflict resolution and the rule of law, global environmental protection, the betterment of humankind, and the protection of dignity and human rights of every man, woman, and child.

Therefore, Mr. President, it is fitting and appropriate that this body bestow the congressional gold medal upon a visionary for our times, his all holiness Ecumenical Patriarch Bartholomew.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) Ecumenical Patriarch Bartholomew—

(A) is the spiritual leader of nearly 300 million Orthodox Christians around the world and millions of Orthodox Christians in America; and

(B) is recognized in the United States and abroad as a leader in the quest for world peace, respect for the earth's environment, and greater religious understanding;

the extraordinary efforts of Ecumenical Patriarch Bartholomew continue to bring people of all faiths closer together in America and around the world;

(3) the courageous leadership of Ecumenical Patriarch Bartholomew for peace in the Balkans, Eastern Europe, the Middle East, the Eastern Mediterranean, and elsewhere inspires and encourages people of all faiths toward his dream of world peace in the new millennium; and

(4) the outstanding accomplishments of Ecumenical Patriarch Bartholomew have been formally recognized and honored by numerous governmental academic, and other institutions around the world.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Ecumenical Patriarch Bartholomew. in recognition of his outstanding and enduring contributions to religious understanding and peace.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be charged against the Numismatic Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medal authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sales of duplicate bronze medals under section 3 shall be deposited in the Numismatic Public Enterprise Fund.

Mr. SARBANES. Mr. President, I am pleased to join Senator D'AMATO, chairman of the Senate Committee on Banking, Housing, and Urban Affairs, in introducing legislation awarding the congressional gold medal to Ecumenical Patriarch Bartholomew, the spiritual leader of approximately 300 million Orthodox Christians worldwide. The occasion of this legislation is to honor Patriarch Bartholomew's first visit to the United States as Patriarch and to recognize his outstanding contributions to world peace and understanding during his tenure as head of this ancient branch of Christianity. As a Greek-Orthodox American and member of the Greek Orthodox Cathedral of the Annunciation in Baltimore, I am particularly gratified to join in this tribute.

During his American visit, which will take place from October 19 through November 17, 1997, Patriarch Bartholomew will meet with thousands of Orthodox faithful and will take the opportunity to convey his message of reconciliation to Americans of all backgrounds and beliefs. His All Holiness has been a leader in ecumenical understanding and has convened important meetings which have brought together participants of all religious backgrounds. In 1994, in cooperation with Rabbi David Schneier and the Appeal of Conscience Foundation, he cosponsored a peace and tolerance Conference in Istanbul where Christians, Jews, and Muslims joined together to discuss important and pressing issues.

As spiritual head of world Orthodoxy, Patriarch Bartholomew has been a leader in the quest for peace throughout the world, particularly in Eastern Europe, the Balkans, and the Middle East. He has vigorously spoken out against extremists and those who would use violence to achieve their ends and has counseled respect for all peoples, irrespective of their nationality and religion; his ministry has been a call to our best virtues.

From his historical seat in Istanbul, Turkey, Patriarch Bartholomew has served as a mediator between East and West, Christians and Muslims, and as a force for openness and tolerance in the newly emerging independent countries of Eastern Europe.

As he pursues the goal of peace, Patriarch Bartholomew is equally vigorous in his desire to preserve and promote the earth's environment as a reflection of God's creation. Working with the European Commission, the Worldwide Fund for Nature, and his Royal Highness Prince Philip, he has cosponsored significant international conferences on the environment, including one scheduled for this fall on the future ecological health of the Black Sea.

I believe it is most fitting that the visit and the accomplishments of Patriarch Bartholomew should be recognized and honored by this gold medal as it will reflect the appreciation of the American people for his ministry of peace and reconciliation.

I am also pleased to join Senator D'AMATO in submitting a concurrent resolution providing for the use of the rotunda for a ceremony honoring Patriarch Bartholomew.

By Mr. ROCKEFELLER:

S. 1063. A bill to suspend temporarily the duty on KN001 (a hydrochloride); to the Committee on Finance.

TEMPORARY DUTY SUSPENSION

Mr. ROCKEFELLER. Mr. President, today I am introducing a duty suspension bill that will not only benefit the chemical workers in my state of West Virginia, but also will enable U.S. farmers to grow more crops at lower cost and protect the environment at the same time.

This legislation will suspend the U.S. duty on a hydrochloride known by its code name of KN001. This substance is a key raw material in a new, environmentally safe family of agricultural chemicals invented by DuPont in the 1980's. These new agricultural chemicals, called sulfonylureas, are used in extremely small amounts by farmers to control weed growth in their fields without harming the crops that the farmers are trying to grow. By suppressing weed growth, these chemicals make sure that all of the available soil nutrients and moisture go into growing the crops instead of growing weeds. Because sulfonylureas operate on plant enzymes, they do not affect insects or animals, and because they biodegrade

rapidly, they are among the most environmentally friendly crop protection chemicals in use today.

An additional benefit of suspending the duty on KN001 is the effect it will have on jobs in my home state of West Virginia. DuPont is in the process of constructing a $20 million revitalization project at their plant in Belle, West Virginia, and KN001 is the cornerstone of that project. The new investment will enable the production at Belle of a new sulfonylurea product family that uses KN001 as a feedstock. This revitalization project will preserve 50 existing jobs at Belle and create over a dozen new jobs.

On top of all that, I've been told that this duty suspension is unlikely to result in any substantial revenue loss to the U.S. Treasury. Because it is used in the manufacture of new products, U.S. imports of this chemical are very small, and the resulting duty is also small. Equally important is the fact that this substance is not manufactured in the United States by another company, so no U.S. producer should be disadvantaged by the duty suspension. It's rare that we get a chance to support legislation that benefits workers, farmers, and the environment at virtually no cost to the Treasury. This is one of those times, and I hope the Senate will look favorably on this modest measure at the appropriate time.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

S. 1063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY SUSPENSION OF DUTY.

(a) IN GENERAL.—Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''9902.30.41 2-4-dichlon-5-hydrozyhydrazine hydrochloride (CAS No. 189573–21–5) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/98''.

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1064. A bill to amend the Alaska National Interest Lands Conservation Act to more effectively manage visitor service and fishing activity in Glacier Bay National Park, and for other purposes; to the Committee on Energy and Natural Resources.

THE GLACIER BAY MANAGEMENT AND PROTECTION ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation addressing several important aspects of the administration and management of Glacier Bay National Park, one of the most popular and unique tourist destinations in the country.

This bill will encourage the continuation of the Park Service's ongoing efforts to work with concession operators to improve visitor services, as well as deal fairly and finally with a longstanding dispute over the status of commercial and subsistence fishing.

On the latter subject, this bill reflects the progress of several years of discussions with local interests and the Park Service. These efforts have been positive, but have been hampered from achieving consensus by some groups' unwillingness to compromise. Insofar as possible, this bill represents an attempt to stake out reasonable and responsible middle ground that respects the wishes of all concerned.

Mr. President, commercial fishermen have plied the waters of Glacier Bay and the outer coast of the area now included in the park for over 100 years. local native villagers, the Huna Tlingit people, have done so for thousands of years. At no time have these activities damaged the park or its resources, nor have they harmed the area's wild and scenic qualities in any way.

This simple fact cannot be overemphasized. To put it another way—commercial fishermen and local villagers have continually fished in Glacier Bay since long before it became a park or a monument, and the fact that we value it so highly today is proof that they have not had an adverse impact on the species of the bay.

Unfortunately, some interests don't care about fairness, and would like to see fishing and gathering banned no matter how environmentally benign or how critical to local livelihoods.

On subsistence, this bill corrects inconsistencies in the Alaska National Interest Lands Conservation Act [ANILCA] concerning subsistence fishing and gathering in Glacier Bay National Park. Villagers living near Glacier Bay, whose ancestors have used the bay continually for the last 9,000 years, must be allowed to use the bay's resources to feed their families —to fish for halibut, salmon, and crabs, and to collect clams, seaweeds, berries, and other foods that are traditional in their culture.

Let me emphasize that we are talking about a relative handful of families from the local Native village of Hoonah, which has a population of less than 900, and a few people from other nearby communities such as Elfin Cove, Gustavus, and Pelican. We are not talking about thousands of people. These Alaskans do not have convenient supermarkets. They deserve respect—they deserve to have their historic use recognized and provided for by this Congress.

My bill also addresses commercial fishing in the park. For generations, commercial fishermen have caught salmon, halibut, and crabs in Glacier Bay and have fished the rich grounds of the outside coast.

There is no biological reason for restricting commercial fishing activity anywhere in the park. The fishery resources are healthy, diverse, closely monitored, and carefully regulated. It should also be noted that of the park's approximately 3 million acres of marine waters, only about 500,000 are productive enough to warrant significant interest.

These fisheries already are restricted as to method and number of participants, and are carefully managed to ensure continued abundance. There is nothing in this bill, and there is no desire by the fishing industry, to change these controls or increase the level of this sustainable activity. Closely monitored by the State of Alaska, which has proven itself a reliable custodian of the fisheries resources, commercial fishing does not harm the environment in any way.

Mr. President, in the grand scheme of this Nation's economy, these fisheries are small potatoes. But to the fishermen who depend upon them, to their families, and to the small, remote communities in which they live, these fisheries are of utmost importance. They are harm-free, and those who participate in them deserve their government's help, not the destruction of their simple lifestyle.

This bill authorizes fishing throughout the park. However, because there are special sensitivities inside Glacier Bay itself, it also designates the waters inside the bay—as opposed to the outer coast—as a special scientific reserve, for which a joint Federal-State group of scientists will make recommendations on where fishing should or should not occur, and at what level.

A further special provision is also included in the one area where there is a significant potential for conflict between fishermen and certain nonmotorized uses such as kayaking. This area is the Beardlee Islands, near the entrance to the bay. Under this bill, the only commercial fishing that would be allowed in the Beardslees would be crab fishing, and that only by the very small number of people—perhaps half a dozen—that can show both a significant history of participation and significant dependence on that fishery for their livelihoods. This privilege could be transferred to one successor when the original fisherman retires, but will cease after that. And at any point, the Park Service could eliminate all fishing in the Beardslees with a fair payment to the individual fishermen. The

reason for such a special rule in the Beardslees is simply that these fishermen have no other option than fishing in the Beardslees, due to the size of their vessels, their reliance on this one fishery, and other factors.

This bill will not contribute to any increase in fishing pressure; in fact, over time the opposite may occur. It will simply provide for the scientifically sound continuation of an environmentally benign activity.

In closing, Mr. President, let me add that the continuation of both subsistence and commercial fishing enjoys wide support from local residents, including environmental groups such as the Southeast Alaska Conservation Council.

I ask unanimous consent that the text of the bill be printed in the RECORD and look forward to my colleagues' support for this measure.

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

S. 1064

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 ''Glacier Bay Management and Protection Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the geographical area comprising Glacier Bay National Park has been recognized as having important national significance since the creation of Glacier Bay National Monument by Presidential proclamation on February 26, 1925, and the subsequent Presidential proclamation expanding the monument on April 18, 1939;

(2) in 1980, Congress enlarged and redesignated the monument as Glacier Bay National Park;

(3) the Park provides valuable opportunities for the scientific study of marine and terrestrial resources in various stages of a postglaciation period;

(4) the Park is a popular tourist destination for cruise ship and tour boat passengers, recreational boaters, fishermen, back-country kayakers, hikers, and other users;

(5) improvements to the Park's infrastructure and an increase in small passenger vessel capacity within the Park are needed to provide for increased enjoyment by visitors to the Park and more efficient management of Park activities;

(6) Huna Tlingit Indians residing near Glacier Bay have engaged in subsistence fishing and gathering in and around the bay for approximately 9,000 years, interrupted only by periodic glacial advances, and reestablished after each glacial retreat;

(7) commercial fishing has occurred in and around Glacier Bay for over 100 years, long before the area was recognized by the Federal Government;

(8) commercial fishing and subsistence fishing and gathering in Glacier Bay National Park occur at stable levels of activity that have no perceivable adverse effect on the health or sustainability of marine resources in the Park, including the marine resources of Glacier Bay;

(9) commercial fishing and subsistence fishing and gathering are of great importance to local residents who often lack other alternatives for sustaining their livelihood; and

(10) the continuation of commercial fishing and subsistence fishing and gathering in Glacier Bay has widespread support among local residents and Glacier Bay users, including the environmental community and operators of back-country kayak tours.

SEC. 3. INFRASTRUCTURE IMPROVEMENT.

Section 1306 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3196) is amended by adding at the end the following:

''(c) GLACIER BAY PARK.—

''(1) GLACIER BAY LODGE.—

''(A) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement, partnership, or other contractual relationship with the operator of Glacier Bay Lodge in Bartlett Cove for the purpose of making improvements to the Lodge and related visitor facilities.

''(B) SCOPE OF WORK.—Improvements to the physical plant and infrastructure under subparagraph (A) may include—

''(i) expansion of the overnight lodging, meeting space, and food service capacity of the Lodge;

''(ii) improvement of visitor access, including boat landing facilities, paths, walkways, and vehicular access routes;

''(iii) construction of a visitor information center and an Alaska Native cultural center;

''(iv) construction of research and maintenance facilities necessary to support Glacier Bay National Park and Glacier Bay Lodge activities;

''(v) construction or alteration of staff housing; and

''(vi) correction of deficiencies that may impair compliance with Federal or State construction, safety, or access requirements.

''(2) ALTERATION OF PARK HEADQUARTERS.—Before entering into a cooperative agreement or contract for alteration or expansion of National Park Service facilities in or near Gustavus, Alaska, the Secretary shall provide to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that includes a cost-benefit analysis of the alteration or expansion, including an examination of other reasonable alternatives to achieve the desired level of service.''.

SEC. 4. SMALL PASSENGER VESSELS.

Section 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197) is amended by adding at the end the following:

''(d) GLACIER BAY PASSENGER VESSELS.

''(1) IN GENERAL.—Not later than 9 months after the date of enactment of this subsection, the Secretary shall promulgate regulations to increase the number of Glacier Bay entry permits available to tour boats during June, July, and August to a level consistent with the demand for the entries.

''(2) TRANSIT SEPARATE FROM TOUR BOATS.—Increases in tour boat entry permits for Glacier Bay under paragraph (1) shall be considered separate from, and shall not affect or be affected by, the number of entry permits provided to small passenger vessels providing passage to and from Glacier Bay Lodge.''.

SEC. 5. SURVEY OF PARK USERS.

Section 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197) (as amended by section 4) is amended by adding at the end the following:

''(e) SURVEY OF GLACIER BAY USERS.—

''(1) SURVEY DESIGN.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a plan for conducting a comprehensive survey of Glacier Bay National Park users during the following visitor season, including individuals arriving in the Park on commercially operated vessels, to determine—

''(A) the extent to which the users consider the activities of other groups of users of the Park as having an adverse impact on the users' enjoyment of the Park; and

''(B) the extent to which the expectations of the users for the Park are being satisfied.

''(2) RESULTS.—Not later than December 31 of the calendar year in which the survey is conducted pursuant to the plan submitted under paragraph (1), the Secretary shall report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives the results of the survey and any recommendations the Secretary considers necessary to reconcile competing uses of the Park or satisfy visitor access needs of the Park.''.

SEC. 6. FISHING.

Section 1314 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3202) is amended by adding at the end the following:

''(d) FISHING IN GLACIER BAY NATIONAL PARK.—

''(1) DEFINITIONS.—In this subsection:

''(A) COUNCIL.—The term 'Council' means the Glacier Bay Fishery Science Advisory Council established by paragraph (6).

''(B) EXTERIOR WATERS OF THE PARK.—The term 'exterior waters of the Park' means the marine waters in the Park but outside Glacier Bay proper.

''(C) GLACIER BAY PROPER.—The term 'Glacier Bay proper' means the waters of Glacier Bay, including coves and inlets, north of a line drawn from Point Gustavus to Point Carolus.

''(D) PARK.—The term 'Park' means Glacier Bay National Park.

''(E) RESERVE.—The term 'Reserve' means the Glacier Bay Marine Fisheries Reserve designated by paragraph (4).

''(F) RESIDENT POPULATION.—The term 'resident population' means a discrete population of fish or shellfish that—

''(i) spawns in the Park;

''(ii) is comprised of individual fish or shellfish the majority of which spend the greater part of their life cycle in the Park; or

''(iii) is demonstrated to be reliant on unique features of the Park for the survival of the population.

''(2) SUBSISTENCE USE.—

''(A) IN GENERAL.—Subject to subparagraph (B), subsistence fishing and gathering by a local resident of the Park, including a resident of Hoonah, shall be allowed in the Park in accordance with title VIII.

''(B) PERMANENT STRUCTURES.—No permanent structure associated with subsistence fishing or gathering, including a set net site, fish camp, cabin, or other related structure, may be constructed in the Park.

''(3) COMMERCIAL FISHING GENERALLY.—

''(A) ALLOWED COMMERCIAL FISHING.—

''(i) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary shall allow commercial fishing in the Park using the following methods and means in use for commercial fishing in the Park during calendar years 1980 through 1996:

''(I) Trolling or seining for salmon, except that seining may not be used in Glacier Bay proper.

''(II) Longlining.

''(III) Use pots or ring nets.

''(ii) FEDERAL AND STATE LAWS.—Fishing allowed under clause (i) shall be subject to any applicable Federal or State law.

''(iii) ADVERSE IMPACT.—

''(I) IN GENERAL.—If the Secretary determines that scientifically valid information demonstrates a significant adverse impact is occurring to a resident population as a result of commercial fishing in the Park, the Secretary shall consult with the relevant State fishery management authority and may request that the authority initiate remedial action.

''(II) EMERGENCY ACTION.—If the Secretary determines that commercial fishing is causing an emergency that poses an immediate threat to a Park resource, including a resident population of fish or shellfish, and that the relevant State fishery management authority is not taking appropriate action, the Secretary may promulgate such regulations as are necessary to protect the threatened resource for the duration of the emergency.

''(B) MEMORANDUM OF UNDERSTANDING.—Not later than 90 days after the date of enactment of this subsection, the Secretary and the relevant State fishery management authority shall jointly prepare and publish a memorandum of understanding that—

''(i) describes the respective authority of the Secretary and the State fishery management authority with regard to the management of commercial fishing in the Park; and

''(ii) establishes a process for consultations and regulatory action under subparagraph (A).

''(4) GLACIER BAY MARINE FISHERIES RESERVE.—

''(A) DESIGNATION.—The waters of Glacier Bay proper are designated as the Glacier Bay Marine Fisheries Reserve.

''(B) PURPOSES.—The purposes of the Reserve are—

''(i) to maintain a high degree of protection for the living marine resources of the Glacier Bay marine ecosystem;

''(ii) to provide for the continued health, diversity, and abundance of the resources in the Glacier Bay marine ecosystem;

''(iii) to provide a continuing opportunity for the conduct of fisheries science in a postglacial ecological environment; and

''(iv) to provide for sustainable public use and enjoyment of the marine resources of Glacier Bay.

''(C) FISHING.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Reserve shall remain open to fishing in accordance with paragraphs (2) and (3).

''(ii) CLOSURES AND RESTRICTIONS.—A closure or a restriction on time, area, or method or means of access to the Reserve may be implemented by the appropriate State fishery management authority if the closure or restriction—

''(I) is recommended by the Council; and

''(II) is required to achieve the purposes of the Reserve.

''(iii) COMMENT.—Before implementing a closure under clause (ii), the appropriate State fishery management authority shall solicit comments from affected commercial or subsistence users of the Reserve.

''(5) BEARDSLEE ISLANDS.—

''(A) RESTRICTION ON FISHING.—Notwithstanding paragraph (4)(C), the waters of the Beardslee Islands managed as wilderness shall be closed to commercial fishing, except that the appropriate State fishery management authority shall allow commercial fishing for Dungeness crab by an individual who, during calendar years 1984 through 1995—

''(i) participated in commercial fishing for Dungeness crab in the Beardslee Islands for a minimum of 10 fishing seasons; and

''(ii) was reliant on the fishing referred to in clause (i) for a significant part of the individual's fishery-related income.

''(B) INFORMATION.—In making a determination of eligibility under subparagraph (A), the appropriate fishery management authority shall consider all available public records as well as any other information made available by the prospective applicant.

''(C) INELIGIBILITY.—

''(i) IN GENERAL.—If an individual engaged in commercial fishing in the waters of the Beardslee Islands under this paragraph voluntarily ceases to participate actively in the fishing for a period of at least 1 year for any reason other than illness, injury, or national service, the individual shall not be eligible to engage in commercial fishing in the waters of the Beardslee Islands under this paragraph.

''(ii) DESIGNATED SUCCESSOR.—

''(I) IN GENERAL.—An individual who is ineligible to engage in commercial fishing under clause (i) may, at any time before or during the year in which the individual ceases to participate actively in fishing, designate a successor that may engage in commercial fishing for Dungeness crab in the waters of the Beardslee Islands under this paragraph as long so the successor—

''(aa) engages in commercial fishing for Dungeness crab in the waters of the Beardslee Islands; and

''(bb) is reliant on the fishing for a significant part of the individual's fishery-related income.

''(II) INELIGIBILITY OF SUCCESSOR.—If a successor designated under subclause (I) voluntarily ceases to participate actively in fishing in the waters of the Beardslee Islands under this paragraph for a period of at least 1 year for any reason other than illness, injury, or national service, the individual shall no longer be eligible to engage in commercial fishing in the waters of the Beardslee Islands under this paragraph.

''(D) TEMPORARY SUCCESSOR.—

''(i) IN GENERAL.—If an individual eligible to engage in commercial fishing in the waters of the Beardslee Islands under this paragraph is forced by reason of illness, injury, or national service to forego the fishing, the individual may designate a temporary successor for a period of 1 year.

''(ii) RENEWAL.—The designation of a temporary successor under clause (i) may be renewed yearly so long as the condition of illness, injury, or national service continues to prevent the eligible individual from participating in the commercial fishing.

''(E) OTHER LAW.—An individual eligible to fish under this paragraph shall be subject to any other Federal or State law.

''(F) FISHING CESSATION AGREEMENT.—

''(i) IN GENERAL.—The Secretary and an individual engaged in commercial fishing under this paragraph may agree on the cessation of commercial fishing by the individual.

''(ii) DESIGNATION OF SUCCESSOR.—An individual who agrees to cease commercial fishing under clause (i) may not designate a successor under subparagraph (C)(ii).

''(G) FORCED RETIREMENT OF SUCCESSOR.—The Secretary may require an individual designated as a successor under subparagraph (C)(ii) to cease commercial fishing under this paragraph if the facility—

''(i) determines that cessation of commercial fishing by the individual would be significantly beneficial to the Reserve; and

''(ii) compensates the individual for the individual's expected lifetime earnings for the commercial fishing, as determined by—

''(I) the individual's average annual earnings over a 5-year period from the commercial fishing; or

''(II) if a minimum of 5 years of data on the individual's earnings from the commercial fishing are unavailable, the average annual earnings of the individual's predecessor for the commercial fishing.

''(6) FISHERY SCIENCE ADVISORY COUNCIL.—

''(A) ESTABLISHMENT.—There is established the Glacier Bay Fishery Science Advisory Council.

''(B) MEMBERSHIP.—

''(i) IN GENERAL.—The Council shall consist of 5 members, of whom—

''(I) 2 members shall be professional fishery biologists appointed by the Secretary;

''(II) 2 members shall be professional fishery biologists appointed by the Governor of Alaska; and

''(III) 1 member shall be a professional fishery biologist who is not employed by the Federal Government or the State of Alaska, who shall—

''(aa) be appointed jointly by the Secretary and the Governor of Alaska; and

''(bb) serve as chairperson of the Council.

''(ii) APPOINTMENTS.—Appointments to the Council shall be made not later than 60 days after the date of enactment of this subsection.

''(iii) REPLACEMENT.—A Council member shall serve on the Council until replaced by the authority that appointed the individual.

''(C) RESPONSIBILITIES.—The Council shall—

''(i) not later than 180 days after the date of enactment of this subsection, provide a report reviewing the status of knowledge about fishery resources in the Park to the Secretary, the State of Alaska, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives; and

''(ii) not later than 1 year after the date of enactment of this subsection, in consultation with appropriate Federal and State agencies, prepare a fisheries management plan for the Reserve, including areas managed as wilderness, in accordance with subparagraph (D).

''(D) FISHERIES MANAGEMENT PLAN.—The fisheries management plan referred to in subparagraph (C)(ii) shall—

''(i) describe a framework for pursuing opportunities for fisheries science in combination with the continued harvest of fish and shellfish from the Reserve, consistent with sound management practices and in accordance with recognized principles for the management of sustainable resources; and

''(ii) make such recommendations as the Council considers appropriate regarding fishery research needs and regulations regarding fishing times, areas, methods, and means.

''(E) CONTINUING RECOMMENDATION.—After completing the fisheries management plan under subparagraph (D), the Council shall continue to meet at least annually, and at such other times as the Council considers necessary, to provide to the Secretary and the entities referred to in subparagraph (C)(i) such additional recommendations on fishery research and management priorities and needs in the Reserve as the Council considers appropriate.

''(F) CONSENSUS DECISIONS.—For a recommendation, designation, or determination of the Council to be effective it shall be made by consensus.

''(G) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

''(7) EFFECT ON TIDAL AND SUBMERGED LAND.—

''(A) CLAIM TO TIDAL OR SUBMERGED LAND.—

''(i) IN GENERAL.—Nothing is this subsection invalidates, validates, or in any other way affects any claim of the State of Alaska to title to any tidal or submerged land.

''(ii) FUTURE ACTION.—No action taken pursuant to or in accordance with this subsection shall bar the State of Alaska from asserting at any time its claim of title to any tidal or submerged land.

''(B) JURISDICTION.—Nothing in this subsection, and no action taken pursuant to this subsection, shall expand or diminish Federal or State jurisdiction, responsibility, interests, or rights in the management, regulation, or control of waters or tidal or submerged land of the State of Alaska.''.

Mr. President, I rise today to offer a bill to provide tax relief to America's

farmer-owned cooperatives. My bill would allow members of America's farmer-owned cooperatives to passthrough the small producer tax credit for ethanol to cooperative members, who are currently not able to take this credit.

Farmer-owned cooperatives are at the heart of America's rural communities. Cooperatives and cooperative members—family farmers whose survival and prosperity are essential for our whole country—work hard, invest, and contribute to their communities daily. We owe them their fair share of that daily effort, along with a level playing field to compete on with other businesses.

I am therefore introducing legislation that will allow the small ethanol producer credit to pass through to cooperative owners and members. Farmer-owned cooperatives have invested over $1 billion in ethanol production and marketing, and more than 857,000 farmers have a stake in the continued development and growth of this important domestic value-added industry. Yet, the members of these cooperatives are unable to benefit from this tax credit because cooperatives are not allowed to passthrough the credit.

By Mr. WELLSTONE (for himself, Mr. GRASSLEY, Mr. KERREY, Mr. JOHNSON, Mr. DASCHLE, and Mr. CONRAD):

S. 1066. A bill to amend the Internal Revenue Code of 1986 to allow the alcohol fuels credit to be allocated to patrons of a cooperative in certain cases; to the Committee on Finance.

TAX RELIEF LEGISLATION

Mr. WELLSTONE. This situation is extremely unfair—owners of other ethanol production facilities are able to take advantage of this incentive, yet we are denying family farmers their fair share of the benefit. While I strongly support the preservation and extension of the ethanol tax incentives—vital for this maturing industry—passthrough of the small producer credit is a separate issue of fundamental fairness for family farmers.

I believe all Members can agree that family farmers, who have made a substantial investment in ethanol production, should be able to take advantage of the same tax benefits that other small business owners who produce ethanol now enjoy. Passthrough of this tax credit is not a corporate subsidy and does not benefit large corporations, but is an incentive for America's family farmers to help produce a fuel that decreases our foreign oil dependence, spurs rural development, and improves our Nation's air quality.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.

(a) IN GENERAL.—Subsection (d) of section 40 of the Internal Revenue Code of 1986 (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization made on a timely filed return (including extensions) for such year, be apportioned pro rata among patrons on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) for the taxable year of the organization, and

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron in which the patronage dividend for the taxable year referred to in subparagraph (A) is includible in gross income.

''(C) SPECIAL RULE FOR DECREASING CREDIT FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the cooperative organization's return for such year, an amount equal to the excess of such reduction over the amount not apportioned to the patrons under subparagraph (A) for the taxable year shall be treated as an increase in tax imposed by this chapter on the organization. Any such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G of this part.''

(b) TECHNICAL AMENDMENT.—Section 1388 of the Internal Revenue Code of 1986 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—

''For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(d)(6).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

By Mr. KERRY (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. LEAHY, Ms. MOSELEY-BRAUN, Mr. WELLSTONE, Ms. LANDRIEU, Mr. KENNEDY, and Mr. HARKIN):

S. 1067. A bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms; to the Committee on Foreign Relations.

THE CODE OF CONDUCT ON ARMS TRANSFERS ACT OF 1997

Mr. KERRY. Mr. President, today I am introducing the Code of Conduct on Arms Transfers Act of 1997, a bill to place restrictions on military assistance and arms transfers to governments that are not democratic, do not respect human rights, are engaged in armed aggression, or are not participating in the U.N. Register of Conventional Arms.

Before I discuss the specifics of the legislation, I want to take a moment to pay tribute to our former colleague and long-time champion of this effort, Senator Mark Hatfield. During his four terms in the Senate, Senator Hatfield developed a reputation as a man committed to the search for peace and a staunch advocate of nonmilitary solutions for international problems. It was natural for Senator Hatfield to take the lead in an effort to make U.S. arms sales policy more reflective of American values. He did not succeed in winning passage of a Code of Conduct, but he placed the issue in front of the Senate and the public, and moved the debate forward. I am sure he is gratified to see that the House of Representatives adopted a version of the Code as an amendment to the bill to authorize State Department activities for fiscal year 1998. I am honored to follow in his footsteps and introduce derivative legislation, the 1997 Code of Conduct Act.

The Code of Conduct on Arms Transfers Act embodies a fundamental shift in the way that the United States will deal with the transfer of conventional weapons to the rest of the world. Like many other aspects of our national security structure, arms sales and other military assistance must be adjusted to the realities of the post-cold-war era. The central theme of our foreign policy has changed from containment of communism to expansion of democracy. We no longer need to send massive amounts of weaponry to our surrogates around the world in an arms race against communism. Instead we must evaluate the effect that arms transfers have on regional stability, the promotion of democracy and the protection of human rights.

Unfortunately, our arms transfer policies have not adjusted to this reality. The United States continues to be the primary supplier of arms to the world. We ranked first in arms transfer agreements with developing nations from 1988 to 1995. In 1995 the United States ranked first in deliveries to the developing world for the fourth year in row. The United States share of all arms transfers to developing nations rose from 11.1 percent in 1988 to 44.1 percent in 1995. In constant dollars the United States has increased deliveries to developing nations from $5.5 billion in 1988 to $9.5 billion in 1995. It is disturbing to me that an analysis done by the Project on Demilitarization and Democracy revealed that, of the arms transfers to developing nations over a 4-year period, 85 percent went to non-Democratic governments. It is clear that other factors, including short-term economic benefits from sales, dominate the U.S. Government's decision making process concerning arms

sales and the nature of the recipient regimes appears to be of little consequence.

The Code of Conduct seeks to elevate the consideration of democracy, human rights and nonaggression from their current status as policy afterthoughts to primary criteria for decisions on arms transfers. A quote from a February 17, 1995 press release from the White House illustrates—by what it omits—the unfortunate tendency to ignore these factors. The release states, in part: ''The U.S. continues to view transfers of conventional arms as a legitimate instrument of U.S. foreign policy—deserving U.S. government support—when they enable us to help friends and allies deter aggression, promote regional security, and increase interoperability of U.S. forces and allied forces. * * * The U.S. will exercise unilateral restraint in cases where overriding national security or foreign policy interests require us to do so.''

The criteria denoted in that statement are, indeed, critical components of a sound U.S. policy on arms transfers and should continue to be considered as such. But the statement omits what should be the very important consideration of the effects arms transfers are likely to have on democratization, nonaggression, and human rights. The U.S. is the largest exporter of weapons to developing nations and we must learn to exercise unilateral restraint not just for national security and foreign policy interests, but also for the furtherance of democracy and human rights.

By exercising restraint, we cannot only further our foreign policy goal of fostering democracy, but also enhance our security as well. The June 1996 Report of the Presidential Advisory Board on Arms Proliferation Policy concluded that U.S. and international security are threatened by the proliferation of advanced conventional weapons. According to the Report, ''The world struggles today with the implications of advanced conventional weapons. It will in the future be confronted with yet another generation of weapons, whose destructive power, size, cost, and availability can raise many more problems even than their predecessors today. These challenges will require a new culture among nations, one that accepts increased responsibility for control and restraint, despite short-term economic and political factors pulling in other directions.'' The Code of Conduct is a step toward that new culture.

The bill I am introducing today differs from past versions of the Code of Conduct in two significant ways. Most importantly, the language no longer requires that Congress pass legislation to accept a Presidential waiver for countries that do not meet the criteria. Under previous versions of the legislation, the President was required to submit to Congress an annual list of countries determined to meet the criteria for human rights, democracy, and nonaggression. For countries that failed to meet this threshold, the President could have requested a national security waiver, but the Congress would have had to enact the waiver through legislation. In my judgment, this approach made granting a waiver pass a very stiff test. Consequently, this provision was a major impediment to passage of the Code. Under the terms of the bill being introduced today, the President will still submit the annual list of countries that meet the criteria, but a Presidential request for a national security waiver does not require further action by the Congress. Congress could, of course, disapprove the waiver through the normal legislative process, but that likely would require overriding a Presidential veto. The design of the waiver process in the bill I am introducing is the same as that passed by the House.

The second difference from past versions of the Code is the inclusion of a section to promote an international arms transfer regime. We are far and away the world's biggest arms merchant and we must lead the way for the rest of the world in addressing this issue. But the United States cannot do this alone. We should not deceive ourselves regarding the ability or willingness of other arms-producing nations to rush in and fill any gap we create. Russia, France, China, and other nations all have the potential to provide weapons the United States and its manufacturers will not provide. My legislation will require the President to expand international efforts to curb worldwide arms sales and to work toward establishing a multilateral regime to govern the transfer of conventional arms. It requires the President to notify allied governments when the United States determines a nation is ineligible under the Code for arms transfers, and request that our allies join the United States in refusing to transfer arms to that nation. The bill also requires the President to report annually to the Congress on steps he is taking to gain international acceptance of the principles incorporated in this legislation and on the progress he is making toward establishing a permanent multilateral structure for controlling arms transfers.

If some of my colleagues view this effort as naive in a rough and tumble world, I call their attention to a commentary editorial in the June 16, 1997, issue of Defense News which endorses the Arms Trade Code of Conduct as passed by the House of Representatives. The editors concluded that the Code ''would create a useful tool to shine light on some nations' darkest human rights and other unsavory secrets.'' The effort to establish an international Code of Conduct has won the support of former Costa Rican President Oscar Arias and a dozen of his fellow Nobel Peace laureates. Similar legislation has been introduced in the European Union and several of its member nations, and the new government in the United Kingdom has expressed support for the concept.

The United States should lead the way and stop selling arms to nations that ignore the rights and needs of their citizens that use those arms to bully their neighbors or their own populations. We should lead the way to establishment of a multilateral regime that will effectively prevent such nations from obtaining arms with which to enforce and administer nefarious activities. This legislation, and the similar legislation already passed by the House of Representatives, can be the vehicle to accomplish this objective.

I want to thank Senator DORGAN, who previously has offered a Code of Conduct provision as an amendment to other legislation, for joining as a cosponsor today, along with Senators FEINGOLD, LEAHY, MOSELEY-BRAUN, WELLSTONE, LANDRIEU, KENNEDY, and HARKIN.

With their support, and the support of other Senators whose support I am confident will be forthcoming, I am hopeful that we will see the Congress enact and the President sign into law this year legislation that will ensure that the values of democratization, human rights, and nonaggression—which are so important to our Nation and so often lauded and referenced by elected officials from both parties—will be legally established as criteria for arms sales and transfers to other nations by the United States.

I ask unanimous consent the text of the bill be printed following my remarks.

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

S. 1067

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 ''Code of Conduct on Arms Transfers Act of 1997''.

SEC. 2. PURPOSE.

The purpose of this Act is to provide clear policy guidelines and congressional responsibility for determining the eligibility of foreign governments to be considered for United States military assistance and arms transfers.

SEC. 3. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE AND ARMS TRANSFERS TO CERTAIN FOREIGN GOVERNMENTS.

(a) PROHIBITION.—Except as provided in subsections (b) and (c), beginning on and after October 1, 1998, United States military assistance and arms transfers may not be provided to a foreign government for a fiscal year unless the President certifies to Congress for that fiscal year that such government meets the following requirements:

(1) PROMOTES DEMOCRACY.—Such government—

(A) was chosen by and permits free and fair elections;

(B) promotes civilian control of the military and security forces and has civilian institutions controlling the policy, operation, and spending of all law enforcement and security institutions, as well as the armed forces;

(C) promotes the rule of law, equality before the law, and respect for individual and

minority rights, including freedom to speak, publish, associate, and organize; and

(D) promotes the strengthening of political, legislative, and civil institutions of democracy, as well as autonomous institutions to monitor the conduct of public officials and to combat corruption.

(2) RESPECTS HUMAN RIGHTS.—Such government—

(A) does not engage in gross violations of internationally recognized human rights, including—

(i) extrajudicial or arbitrary executions;

(ii) disappearances;

(iii) torture or severe mistreatment;

(iv) prolonged arbitrary imprisonment;

(v) systematic official discrimination on the basis of race, ethnicity, religion, gender, national origin, or political affiliation; and

(vi) grave breaches of international laws of war or equivalent violations of the laws of war in internal conflicts;

(B) vigorously investigates, disciplines, and prosecutes those responsible for gross violations of internationally recognized human rights;

(C) permits access on a regular basis to political prisoners by international humanitarian organizations such as the International Committee of the Red Cross;

(D) promotes the independence of the judiciary and other official bodies that oversee the protection of human rights;

(E) does not impede the free functioning of domestic and international human rights organizations; and

(F) provides access on a regular basis to humanitarian organizations in situations of conflict or famine.

(3) NOT ENGAGED IN CERTAIN ACTS OF ARMED AGGRESSION.—Such government is not currently engaged in acts of armed aggression in violation of international law.

(4) FULL PARTICIPATION IN UNITED NATIONS REGISTER OF CONVENTIONAL ARMS.—Such government is fully participating in the United Nations Register of Conventional Arms.

(b) REQUIREMENT FOR CONTINUING COMPLIANCE.—Any certification with respect to a foreign government for a fiscal year under subsection (a) shall cease to be effective for that fiscal year if the President certifies to Congress that such government has not continued to comply with the requirements contained in paragraphs (1) through (4) of such subsection.

(c) EXEMPTIONS.—

(1) IN GENERAL.—The prohibition contained in subsection (a) shall not apply with respect to a foreign government for a fiscal year if—

(A) subject to paragraph (2), the President submits a request for an exemption to Congress containing a determination that it is in the national security interest of the United States to provide military assistance and arms transfers to such government; or

(B) the President determines that an emergency exists under which it is vital to the interest of the United States to provide military assistance and arms transfers to such government.

(2) DISAPPROVAL.—A request for an exemption to provide military assistance and arms transfers to a foreign government shall not take effect, or shall cease to be effective, if a law is enacted disapproving such request.

(d) NOTIFICATIONS TO CONGRESS.—

(1) IN GENERAL.—The President shall submit to Congress initial certifications under subsection (a) and requests for exemptions under subsection (c)(1)(A) in conjunction with the submission of the annual congressional presentation documents for foreign assistance programs for a fiscal year and shall, where appropriate, submit additional or amended certifications and requests for exemptions at any time thereafter in the fiscal year.

(2) DETERMINATION WITH RESPECT TO EMERGENCY SITUATIONS.—Whenever the President determines that it would not be contrary to the national interest to do so, he shall submit to Congress at the earliest possible date reports containing determinations with respect to emergencies under subsection (c)(1)(B). Each such report shall contain a description of—

(A) the nature of the emergency;

(B) the type of military assistance and arms transfers provided to the foreign government; and

(C) the cost to the United States of such assistance and arms transfers.

SEC. 4. PROMOTING AN INTERNATIONAL ARMS TRANSFERS REGIME.

(a) INTERNATIONAL COOPERATION.—Prior to the beginning of each fiscal year, the President shall compile a list of countries that do not meet the requirements in section 3(a) and for which the President has not requested an exemption under section 3(c). The President shall—

(1) notify the governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual Use Goods and Technologies, done at Vienna, July 11 and 12, 1996 (in this section referred to as the ''Wassenaar Arrangement''), and such other foreign governments as the President deems appropriate, that the countries so listed are ineligible to receive United States arms sales and military assistance under this Act; and

(2) request that the countries so notified also declare the listed countries as ineligible for arms sales and military assistance.

(b) MULTILATERAL EFFORTS.—The President shall continue and expand efforts through the United Nations and other international fora, such as the Wassenaar Arrangement, to limit arms transfers worldwide, particularly transfers to countries that do not meet the criteria established in section 3, for the purpose of establishing a permanent multilateral regime to govern the transfer of conventional arms.

(c) REPORT.—

(1) IN GENERAL.—Beginning one year after the date of enactment of this Act, and annually thereafter, the President shall submit a report to Congress—

(A) describing efforts he has undertaken during the preceding year to gain international acceptance of the principles contained in section 3; and

(B) evaluating the progress made toward establishing a multilateral regime to control the transfer of conventional arms.

(2) SUBMISSION OF THE REPORT.—This report shall be submitted in conjunction with the submission of the annual congressional presentation documents for foreign assistance programs for a fiscal year.

SEC. 5. UNITED STATES MILITARY ASSISTANCE AND ARMS TRANSFERS DEFINED.

For purposes of this Act, the terms ''United States military assistance and arms transfers'' and ''military assistance and arms transfers'' mean—

(1) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to military assistance), including the transfer of excess defense articles under section 516 of that Act;

(2) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training); or

(3) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (excluding any transfer or other assistance under section 23 of such Act), including defense articles and defense services licensed or approved for export under section 38 of that Act.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 224

At the request of Mr. WARNER, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes.

S. 251

At the request of Mr. SHELBY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 251, a bill to amend the Internal Revenue Code of 1986 to allow farmers to income average over 2 years.

S. 349

At the request of Mrs. BOXER, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 349, a bill to amend the Public Health Service Act to provide for expanding, intensifying, and coordinating activities of the National Heart, Lung, and Blood Institute with respect to heart attack, stroke, and other cardiovascular diseases in women.

S. 442

At the request of Mr. WYDEN, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 442, a bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

S. 755

At the request of Mr. CAMPBELL, the names of the Senator from New Jersey [Mr. TORRICELLI] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to make other improvements to that chapter.

S. 859

At the request of Mr. KYL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 859, a bill to repeal the increase in tax on Social Security benefits.

S. 887

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from

Louisiana [Ms. LANDRIEU], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom program, and for other purposes.

S. 920

At the request of Mr. WYDEN, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 920, a bill to require the Secretary of Health and Human Services to issue an annual report card on the performance of the States in protecting children placed for adoption in foster care, or with a guardian, and for other purposes.

S. 1000

At the request of Mr. CHAFEE, the names of the Senator from Virginia [Mr. WARNER], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Oklahoma [Mr. INHOFE], the Senator from Wyoming [Mr. THOMAS], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Colorado [Mr. ALLARD], the Senator from Montana [Mr. BAUCUS], the Senator from Nevada [Mr. REID], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1000, a bill to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the ''Robert J. Dole United States Courthouse''.

S. 1002

At the request of Mr. ABRAHAM, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1002, a bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes.

S. 1060

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of S. 1060, a bill to restrict the activities of the United States with respect to foreign laws that regulate the marketing of tobacco products and to subject cigarettes that are exported to the same restrictions on labeling as apply to the sale or distribution of cigarettes in the United States.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the names of the Senator from New Jersey [Mr. TORRICELLI], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE CONCURRENT RESOLUTION 38

At the request of Mr. ROTH, the names of the Senator from New Jersey [Mr. TORRICELLI), and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of Senate Concurrent Resolution 38, a concurrent resolution to state the sense of the Congress regarding the obligations of the People's Republic of China under the Joint Declaration and the Basic Law to ensure that Hong Kong remains autonomous, the human rights of the people of Hong Kong remain protected, and the government of the Hong Kong SAR is elected democratically.

SENATE CONCURRENT RESOLUTION—42—AUTHORIZING THE USE OF THE CAPITOL FOR A CEREMONY HONORING ECUMENICAL PATRIARCH BARTHOLOMEW

Mr. D'AMATO (for himself and Mr. SARBANES) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 42

Whereas Ecumenical Patriarch Bartholomew is the spiritual leader of nearly 300 million Orthodox Christians around the world and millions of Orthodox Christians in America;

Whereas Ecumenical Patriarch Bartholomew is recognized in the United States and abroad as a leader in the quest for world peace, respect for the earth's environment, and greater religious understanding;

Whereas the extraordinary efforts of Ecumenical Patriarch Bartholomew continue to bring people of all faiths closer together in America and around the world;

Whereas the courageous leadership of Ecumenical Patriarch Bartholomew for peace in the Balkans, Eastern Europe, the Middle East, the Eastern Mediterranean, and elsewhere inspires and encourages people of all faiths toward his dream of world peace in the new millennium; and

Whereas the outstanding accomplishments of Ecumenical Patriarch Bartholomew have been formally recognized and honored by numerous governmental, academic, and other institutions around the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used in October 21, 1997, for a congressional ceremony honoring Ecumenical Patriarch Bartholomew. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

AMENDMENTS SUBMITTED

THE AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1998

ROBB AMENDMENT NO. 977

Mr. ROBB proposed an amendment to the bill (S. 1033) making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 7, line 3, strike ''$24,948,000'' and insert in lieu thereof, ''$26,948,000''.

On page 7, line 16, before the period, insert the following: '': *Provided further,* That of the total amount appropriated, not less than $13,774,000 shall be made available for civil rights enforcement, of which up to $3,000,000 shall be provided to establish an investigative unit within the Office of Civil Rights''.

On page 34, line 6, strike ''$47,700,000'' and insert in lieu thereof ''$44,700,000''.

On page 35, line 1, strike ''$3,000,000'' and insert in lieu thereof ''$4,000,000''.

BINGAMAN (AND) CAMPBELL AMENDMENT NO. 978

Mr. BUMPERS (for Mr. BINGAMAN, for himself and Mr. CAMPBELL) proposed an amendment to the bill S. 1033, supra; as follows:

On page 13, line 20, strike ''$13,619,000'' and insert ''$13,469,000''.

On page 14, line 22, strike ''$10,991,000'' and insert ''$11,141,000''.

THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1998

GREGG AMENDMENT NO. 979

Mr. GREGG proposed an amendment to the bill (S. 1022) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

On page 65, strike lines 3 through 9 and insert the following:

SEC. 119. Section 203(p)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)''; and

(2) by adding at the end the following new subparagraph:

''(B)(i) The Administrator may exercise the authority under subparagraph (A) with respect to such surplus real and related property needed by the transferee or grantee for—

''(I) law enforcement purposes, as determined by the Attorney General; or

''(II) emergency management response purposes, including fire and rescue services, as determined by the Director of the Federal Emergency Management Agency.

''(ii) The authority provided under this subparagraph shall terminate on December 31, 1999.''

BROWNBACK AMENDMENT NO. 980

Mr. BROWNBACK proposed an amendment to the bill, S. 1022, supra; as follows:

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

SEC. 6 . Section 28(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)) is amended by adding at the end the following:

''(12) For each fiscal year following fiscal year 1997, the Secretary may not enter into a contract with, or make an award to, a corporation under the Program, or otherwise permit the participation of the corporation in the Program (individually, or through a joint venture or consortium) if that corporation, for the fiscal year immediately preceding that fiscal year, has revenues that exceed $2,500,000,000.''.

LUGAR (AND OTHERS) AMENDMENT NO. 981

Mr. LUGAR (for himself, Mr. MCCONNELL, Mr. LEAHY, Mr. GRAHAM, Mr. LIEBERMAN, Mr. ROTH, Mr. DODD, Mr. MACK, and Ms. MIKULSKI) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 113, line 7, after the word ''expended.'' insert the following new heading and section:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States information Agency to the National Endowment for Democracy as authorized by the National Endowment Democracy Act, $30,000,000 to remain available until expended.

On page 100, line 24 strike ''$105,000,000'' and insert ''$75,000,000''.

McCONNELL (AND OTHERS) AMENDMENT NO. 982

Mr. MCCONNELL (for himself, Mr. LUGAR, Mr. LEAHY, Mr. GRAHAM, Mr. LIEBERMAN, Mr. ROTH, Mr. DODD, Mr. MACK, and Ms. MIKULSKI) proposed an amendment to amendment No. 981 proposed by Mr. LUGAR to the bill, S. 1022, supra; as follows:

On page 113, line 7, after the word ''expended.'' insert the following new heading and section:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment Democracy Act, $30,000,000 to remain available until expended. This shall become effective one day after enactment of this Act.

On page 100, line 24, strike ''$105,000,000'' and insert ''$75,000,000''.

WARNER AMENDMENT NO. 983

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill, S. 1022, supra; as follows:

In Section 112(c)(6)(A) before the semicolon insert the following: ''subject to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 471 and following) and the Public Buildings Act of 1959 (40 U.S.C. 601–619).''

In Section 112(c)(6) be further amended by: (1) striking the word ''and'' after the semicolon, (2) by inserting ''and'' after the semicolon in subparagraph (B), and (3) by adding the following paragraphs (C):

''(C) The General Services Administration is authorized to and shall continue the ongoing procurement to consolidate or relocate the organization's headquarters facilities in accordance with the authority granted pursuant to the Public Buildings Act of 1959 (40 U.S.C. §§601–619) and authorizing Committee Resolutions.''.

In Section 112(c)(7)(A), strike ''without regard to'' and insert ''subject to'', add ''of 1959'' after ''Public Buildings Act'' and strike ''and the'' before ''Stewart B. McKinney Homeless Assistance Act.'' and insert ''and without regard to the''.

In Section 112(c)(12) strike ''including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or interest therein,''.

LUGAR (AND OTHERS) AMENDMENT NO. 984

Mr. LUGAR (for himself, Mr. LEAHY, Mr. MCCONNELL, Mr. GRAHAM, Mr. DODD, Mr. ROTH, Mr. LIEBERMAN, Mr. MACK, and Ms. MIKULSKI):

Strike all after the last word in the bill and substitute the following:

''1998

''SEC. . NATIONAL ENDOWMENT FOR DEMOCRACY.

''For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended. The language on page 100, line 24 to wit, '$105,000,000' is deemed to be '$75,000,000'.''

McCONNELL (AND OTHERS) AMENDMENT NO. 985

Mr. MCCONNELL (for himself, Mr. LEAHY, Mr. LUGAR, Mr. GRAHAM, Mr. DODD, Mr. ROTH, Mr. LIEBERMAN, Mr. MACK, and Ms. MIKULSKI) proposed an amendment to amendment No. 984 proposed by Mr. LUGAR to the bill, S. 1022, supra; as follows:

Strike all after the word ''1998'' on line 4 of the underlying amendment and substitute the following:

SEC. . NATIONAL ENDOWMENT FOR DEMOCRACY.

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000 to remain available until expended. The language on page 100, line 24 to wit, ''$105,000,000'' is deemed to be ''$75,000,000''. This shall become effective one day after enactment of this Act.''

FEINSTEIN (AND OTHERS) AMENDMENT NO. 986

Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mrs. MURRAY, Mrs. BOXER, Mr. REID, and Mr. BRYAN) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 93, line 5, strike all through line 15 on page 97 and insert the following new section:

SEC. 305. COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS.

(a) ESTABLISHMENT AND FUNCTIONS OF COMMISSION.—

(1) ESTABLISHMENT.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the ''Commission'').

(2) FUNCTIONS.—The functions of the Commission shall be to—

(A) study the present division of the United States into the several judicial circuits;

(B) study the structure and alignment of the Federal Court of Appeals system, with particular reference to the Ninth Circuit; and

(C) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeals, consistent with fundamental concepts of fairness and due process.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 10 members appointed as follows:

(A) One member appointed by the President of the United States.

(B) One member appointed by the Chief Justice of the United States.

(C) Two members appointed by the Majority Leader of the Senate.

(D) Two members appointed by the Minority Leader of the Senate.

(E) Two members appointed by the Speaker of the House of Representatives.

(F) Two members appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENT.—The members of the Commission shall be appointed within 60 days after the date of the enactment of this Act.

(3) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(4) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(5) QUORUM.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

(c) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(2) PRIVATE MEMBERS.—Members of the Commission from private life shall receive $200 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(d) PERSONNEL.—

(1) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—The Executive Director, with the approval of the Commission, may appoint and fix the compensation of such additional personnel as the Executive Director determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this paragraph shall not exceed the annual maximum rate of basic pay for a position above GS–15 of the General Schedule under section 5108 of title 5, United States Code.

(3) EXPERTS AND CONSULTANTS.—The Executive Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(4) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, to the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services to the Commission on a reimbursable basis.

(e) INFORMATION.—The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance the Commission determines necessary to carry out its functions under this section. Each such department, agency, and independent instrumentality is authorized to

provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

(f) REPORT.—No later than 18 months following the date on which its sixth member is appointed in accordance with subsection (b)(2), the Commission shall submit its report to the President and the Congress. The Commission shall terminate 90 days after the date of the submission of its report.

(g) CONGRESSIONAL CONSIDERATION.—No later than 60 days after the submission of the report, the Committees on the Judiciary of the House of Representatives and the Senate shall act on the report.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums, not to exceed $900,000, as may be necessary to carry out the purposes of this section. Such sums as are appropriated shall remain available until expended.

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE RESOLUTION

KERRY (AND CHAFEE) AMENDMENT NO. 987

(Ordered to lie on the table.)

Mr. KERRY (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by them to the resolution (S. Res. 98) expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change; as follows:

On page 4, line 13, after ''period,'' insert the following:

''(ii) provides countries with incentives and flexibility in reducing emissions cost-effectively by using the market-oriented approaches of emissions budgets, emissions trading, and appropriate joint implementation with all Parties,

''(iii) includes credible compliance mechanisms, and

''(iv) provides appropriate recognition for countries that undertake emissions reductions prior to the start of the mandated reductions;''.

THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1998

BOND AMENDMENT NO. 988

(Ordered to lie on the table.)

Mr. BOND submitted an amendment intended to be proposed by him to the bill, S. 1022, supra; as follows:

On page 143, between lines 18 and 19, insert the following:

SEC. 5 . Notwithstanding any other provision of law, no amount made available to the Small Business Administration under this title may be obligated or expended to carry out section 7(a) of the Small Business Act (15 U.S.C. 637(a)) before the date on which the Committees on Appropriations and the Committees on Small Business of the House of Representatives and the Senate receive, pursuant to section 10(e) of the Small Business Act (15 U.S.C. 639(e)), unredacted copies of all documents requested by the Chairman of the Committee on Small Business of the Senate in a letter of May 16, 1997, relating to the program under section 7(a) of the Small Business Act (15 U.S.C. 637(a)).

SARBANES (AND OTHERS) AMENDMENT NO. 989

Mr. SARBANES (for himself, Mr. MOYNIHAN, Mr. HATCH, Mr. JEFFORDS, Mr. KERRY, Mr. BIDEN, and Mr. LEAHY) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 124, beginning on line 5, strike all through page 125, line 2.

WELLSTONE AMENDMENTS NOS. 990–991

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to the bill, S. 1022, supra; as follows:

AMENDMENT NO. 990

At the appropriate place in title V of the bill, insert the following:

SEC. 5 . For fiscal year 1998 and subsequent fiscal years, in determining, under section 1007(a)(2)(B) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(B)), the eligibility for legal assistance of an individual who is a victim of domestic violence, a recipient described in such section shall calculate the assets and income described in such section as the assets and income of the individual, rather than—

(1) the assets and income of the spouse of the individual; or

(2) the joint assets and income of the individual and the spouse.

AMENDMENT NO. 991

At the appropriate place in title V of the bill, insert the following:

SEC. 5 . The Attorney General, in consultation with the Legal Services Corporation, shall—

(1) conduct a study, with respect to individuals adversely affected due to changes in their Federal benefits resulting from the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193), and the amendments made by that Act, who otherwise would have obtained assistance from the Legal Services Corporation or grantees thereof, but who were unable to obtain such assistance as a result of the enactment of section 504(a)(16) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–55), regarding—

(A) the estimated number of those individuals; and

(B) the legal, financial, and personal effects on those individuals, as appropriate, of that inability to obtain assistance from the Legal Services Corporation or grantees thereof; and

(2) not later than 180 days after the date of enactment of this Act, submit to Congress a report describing the results of the study conducted under paragraph (1).

KERRY (AND OTHERS) AMENDMENT NO. 992

Mr. KERRY (for himself, Mr. DODD, Mrs. MURRAY, Mr. LAUTENBERG, and Mr. JOHNSON) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 29, line 18, insert ''That of the amount made available for Local Law Enforcement Block Grants under this heading, $47,000,000 shall be for the Community Policing to Combat Domestic Violence Program established pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968: *Provided further,*'' after ''*Provided,*''.

GRAHAM AMENDMENT NO. 993

Mr. GRAHAM proposed an amendment to the bill, S. 1022, supra; as follows:

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

SEC. 1. Of the amounts made available under this title under the heading ''OFFICE OF JUSTICE PROGRAMS'' under the subheading ''STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE'', not more than 90 percent of the amount otherwise to be awarded to an entity under the Local Law Enforcement Block Grant Program shall be made available to that entity, if it is made known to the Federal official having authority to obligate or expend such amounts that the entity employs a public safety officer (as that term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide an employee who is public safety officer and who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are otherwise paid by the entity to a public safety officer at the time of retirement or separation.

DOMENICI AMENDMENT NO. 994

Mr. DOMENICI proposed an amendment to the bill, S. 1022, supra; as follows:

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

SEC. 1 . PUBLIC DISCLOSURE OF COURT APPOINTED ATTORNEYS' FEES.

Section 3006A(d) of title 18, United States Code, is amended by striking paragraph (40 and inserting the following:

''(4) DISCLOSURE OF FEES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (E), the amounts paid under this subsection for services in any case shall be made available to the public by the court upon the court's approval of the payment.

''(B) PRE-TRIAL OR TRIAL IN PROGRESS.—If a trial is in pre-trial status or still in progress and after considering the defendant's interests as set forth in subparagraph (D), the court shall—

''(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

''(ii) make public only the amounts approved for payment to defense counsel by diving those amounts into the following categories:

''(I) Arraignment and or plea.

''(II) Bail and detention hearings.

''(III) Motions.

''(IV) Hearings.

''(V) Interviews and conferences.

''(VI) Obtaining and reviewing records.

''(VII) Legal research and brief writing.

''(VIII) Travel time.

''(IX) Investigative work.

''(X) Experts.

''(XI) Trial and appeals.

''(XII) Other.

''(C) TRIAL COMPLETED.—

''(i) IN GENERAL.—If a request for payment is not submitted until after the completion

of the trial and subject to consideration of the defendant's interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

''(ii) PROTECTION OF THE RIGHTS OF THE DEFENDANT.—If the court determines that defendant's interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

''(D) CONSIDERATIONS.—The interests referred to in subparagraphs (B) and (C) are

(i) to protect any person's 5th amendment right against self-incrimination;

''(ii) to protect the defendant's 6th amendment rights to effective assistance of counsel;

''(iii) the defendant's attorney-client privilege;

''(iv) the work product privilege of the defendant's counsel;

''(v) the safety of any person and

''(vi) any other interest that justice may require.

''(E) NOTICE.—The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant's interests set forth in subparagraph (D) will be compromised.''.

KYL AMENDMENT NO. 995

Mr. GREGG (for Mr. KYL) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.

Section 3626(f) of title 18, United States Code, is amended—

(1) by striking the subsection heading and inserting the following:

''(f) SPECIAL MASTERS FOR CIVIL ACTIONS CONCERNING PRISON CONDITIONS.—''; AND

(2) in paragraph (4)—

(A) by inserting ''(A)'' after ''(4)'';

(B) in subparagraph (A), as so designated, by adding at the end the following: ''In no event shall a court require a party to a civil action under this subsection to pay the compensation, expenses, or costs of a special master. Notwithstanding any other provision of law (including section 306 of the Act entitled 'An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled 'An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, (110 Stat. 3009–201)) and except as provided in subparagraph (B), the requirement under the preceding sentence shall apply to the compensation and payment of expenses or costs of a special master for any action that is commenced, before, on, or after the date of enactment of the Prison Litigation Reform Act of 1995.''; and

(C) by adding at the end the following:

''(B) The payment requirements under subparagraph (A) shall not apply to the payment to a special master who was appointed before the date of enactment of the Prison Litigation Reform Act of 1995 (110 Stat. 1321–165 et seq.) of compensation, expenses, or costs relating to activities of the special master under this subsection that were carried out during the period beginning on the date of enactment of the Prison Litigation Reform Act of 1995 and ending on the date of enactment of this subparagraph.''.

COVERDELL AMENDMENT NO. 996

Mr. GREGG (for Mr. COVERDELL) proposed an amendment to the bill, S. 1022, supra; as follows:

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

SEC. . REPORT ON COLLECTING DNA SAMPLES FROM SEX OFFENDERS.

(a) DEFINITIONS.—In this section—

(1) the terms ''criminal offense against a victim who is a minor'', ''sexually violent offense'', and ''sexually violent predator'' have the meanings given those terms in section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)));

(2) the term ''DNA'' means deoxyribonucleic acid; and

(3) the term ''sex offender'' means an individual who—

(A) has been convicted in Federal court of—

(i) a criminal offense against a victim who is a minor; or

(ii) a sexually violent offense; or

(B) is a sexually violent predator.

(b) REPORT.—From amounts made available to the Department of Justice under this title, not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include a plan for the implementation of a requirement that, prior to the release (including probation, parole, or any other supervised release) of any sex offender from Federal custody following a conviction for a criminal offense against a victim who is a minor or a sexually violent offense, the sex offender shall provide a DNA sample to the appropriate law enforcement agency for inclusion in a national law enforcement DNA database.

(c) PLAN REQUIREMENTS.—The plan submitted under subsection (b) shall include recommendations concerning—

(1) a system for—

(A) the collection of blood and saliva specimens from any sex offender;

(B) the analysis of the collected blood and saliva specimens for DNA and other genetic typing analysis; and

(C) making the DNA and other genetic typing information available for law enforcement purposes only;

(2) guidelines for coordination with existing Federal and State DNA and genetic typing information databases and for Federal cooperation with State and local law in sharing this information;

(3) addressing constitutional, privacy, and related concerns in connection with the mandatory submission of DNA samples; and

(4) procedures and penalties for the prevention of improper disclosure or dissemination of DNA or other genetic typing information.

DORGAN (AND OTHERS) AMENDMENT NO. 997

Mr. HOLLINGS (for Mr. DORGAN, for himself, Mr. ROCKEFELLER, Mr. HOLLINGS, and Mr. DASCHLE) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD NOT MANIPULATE UNIVERSAL SERVICE SUPPORT PAYMENTS TO BALANCE THE FEDERAL BUDGET.

Whereas the Congress reaffirmed the importance of universal service support for telecommunications services by passing the Telecommunications Act of 1996;

Whereas the Telecommunications Act of 1996 required the Federal Communications Commission to preserve and advance universal service based on the following principles:

(A) Quality services should be available at just, reasonable, and affordable rates;

(B) Access to advanced telecommunications and information services should be provided in all regions of the Nation;

(C) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services;

(D) All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service;

(E) There should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service; and

(F) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services;

Whereas Federal and state universal contributions are administered by an independent, non-federal entity and are not deposited into the Federal Treasury and therefore not available for Federal appropriations;

Whereas the Conference Committee on H.R. 2015, the Budget Reconciliation Bill, is considering proposals that would withhold Federal and State universal service funds in the year 2002; and

Whereas the withholding of billions of dollars of universal service support payments will mean significant rate increases in rural and high cost areas and will deny qualifying schools, libraries, and rural health facilities discounts directed under the Telecommunications Act of 1996:

Now, therefore, be it

Resolved, That it is the sense of the Senate that the Conference Committee on HR 2015 should not manipulate, modify, or impair universal service support as a means to achieve a balanced Federal budget or achieve Federal budget savings.

BIDEN AMENDMENT NO. 998

Mr. HOLLINGS (for Mr. BIDEN) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

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

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

(3) by adding at the end the following:

''(7) for fiscal year 2001, $4,355,000,000; and

''(8) for fiscal year 2002, $4,455,000,000.''.

Beginning on the date of enactment of this legislation, the non-defense discretionary spending limits contained in Section 201 of

H. Con. Res. (105th Congress) are reduced as follows:

for fiscal year 2001, $4,355,000,000 in new budget authority and $5,936,000,000 in outlays;

for fiscal year 2002, $4,455,000,000 in new budget authority and $4,485,000,000 in outlays;

BAUCUS (AND BURNS) AMENDMENT NO. 999

Mr. HOLLINGS (for Mr. BAUCUS for himself and Mr. BURNS) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of law, the Economic Development Administration is directed to transfer funds obligated and awarded to the Butte-Silver Bow Consolidated Local Government as Project Number 05–01–02822 to the Butte Local Development Corporation Revolving Loan Fund to be administered by the Butte Local Development Corporation, such funds to remain available until expended.

BINGAMAN AMENDMENT NO. 1000

Mr. HOLLINGS (for Mr. BINGAMAN) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 65, between lines 9 and 10, insert the following:

SEC. 120. (a) Section 1(d) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(d)) is amended by inserting after ''The term 'agent of a foreign principal' '' the following: ''(1) includes an entity described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986 that receives, directly or indirectly, from a government of a foreign country (or more than one such government) in any 12-month period contributions in a total amount in excess of $10,000, and that conducts public policy research, education, or information dissemination and that is not included in any other subsection of 170(b)(1)(A), and (2)''.

Section 3(d) of such Act (22 U.S.C. 613(d)) is amended by inserting '', other than an entity referred to in section 1(d)(1),'' after ''Any person''.

BUMPERS AMENDMENT NO. 1001

Mr. HOLLINGS (for Mr. BUMPERS) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . The Office of Management and Budget shall designate the Jonesboro-Paragould, AR Metropolitan Statistical Area in lieu of the Jonesboro, AR Metropolitan Statistical Area. The Jonesboro-Paragould, AR Metropolitan Statistical Area shall include both Craighead County, AR and Greene County, AR, in their entirety.

BYRD (AND HATCH) AMENDMENT NO. 1002

Mr. HOLLINGS (for Mr. BYRD, for himself and Mr. HATCH) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 29 of the bill, on line 18, before the '':'' insert the following: '', of which $25,000,000 shall be for grants to states for programs and activities to enforce state laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors''.

DORGAN AMENDMENT NO. 1003

Mr. HOLLINGS (for Mr. DORGAN) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 86, line 3 after ''Secretary of Commerce.'' insert the following:

''SEC. 211. In addition to funds provided elsewhere in this Act for the National Telecommunications and Information Administration Information Infrastruction Grants program, $10,490,000 is available until expended: Provided, That this amount shall be offset proportionately by reductions in appropriations provided for the Department of Commerce in Title II of this Act, provided amounts provided: *Provided further,* That no reductions shall be made from any appropriations made available in this Act for the National Oceanic and Atmospheric Administration, National Institute of Standards and Technology and National Telecommunications and Information Administration public broadcasting facilities, planning and construction.''

DASCHLE AMENDMENT NO. 1004

Mr. HOLLINGS (for Mr. DASCHLE) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 29 of the bill, line 2, after ''Center'' insert the following: '', of which $100,000 shall be available for a grant to Roberts County, South Dakota; and of which $900,000 shall be available for a grant to the South Dakota Division of Criminal Investigation for the procurement of equipment for law enforcement telecommunications, emergency communications, and the state forensic laboratory''.

INOUYE AMENDMENT NO. 1005

Mr. HOLLINGS (for Mr. INOUYE) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 93, strike the matter between lines 14 and 15 and insert the following:

''Ninth ..... California, Nevada.'';

On page 93, strike the matter between lines 17 and 18 and insert the following:

''Twelfth ..... Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.''.

On page 94, strike lines 14 through 19 and insert the following:

''(1) is in California or Nevada is assigned as a circuit judge on the new ninth circuit;

(2) is in Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon or Washington is assigned as a circuit judge on the twelfth circuit; and''.

HARKIN (AND WARNER) AMENDMENT NO. 1006

Mr. HOLLINGS (for Mr. HARKIN, for himself and Mr. WARNER) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE REGARDING THE EXEMPLARY SERVICE OF JOHN H. R. BERG TO THE UNITED STATES

Whereas, John H. R. Berg began his service to the United States Government working for the United States Army at the age of fifteen after fleeing Nazi persecution in Germany where his father died in the Auschwitz concentration camp; and,

Whereas, John H. R. Berg's dedication to the United States Government was further exhibited by his desire to become a United States citizen, a goal that was achieved in 1981, 35 years after he began his commendable service to the United States; and,

Whereas, since 1949, John H. R. Berg has been employed by the United States Embassy in Paris where he is currently the Chief of the Visitor's and Travel Unit. And, this year has supported over 10,700 official visitors, 500 conferences, and over 15,000 official and unofficial reservations; and,

Whereas, John H. R. Berg's reputation for ''accomplishing the impossible'' through his dedication, efficiency and knowledge has become legend in the Foreign Service; and,

Whereas, John H. R. Berg has just completed 50 years of outstanding service to the United States Government with the United States Department of State,

Therefore Be It Resolved, it is the Sense of the Senate that John H. R. Berg deserves the highest praise from the Congress for his steadfast devotion, caring leadership, and lifetime of service to the United States Government.

LEAHY (AND KENNEDY) AMENDMENT NO. 1007

Mr. HOLLINGS (for Mr. LEAHY, for himself and Mr. KENNEDY) proposed an amendment to the bill, S. 1022, supra; as follows:

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

''The Administrative Office of the United States Courts, in consultation with the Judicial Conference, shall conduct a study of the average costs incurred in defending and presiding over federal capital cases from the initial appearance of the defendant through the final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees on Appropriations and Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, with constitutional requirements.

'': *Provided Further,* That the Attorney General, shall review the practices of U.S. Attorneys' Offices and relevant investigating agencies in investigating and prosecuting federal capital cases, including before the initial appearance of the defendant through final appeal, and shall submit a written report to the Chairman and Ranking Members of the Senate and House Committees on the Appropriations and Judiciary on or before July 1, 1998, containing recommendations on measures to contain costs in such cases, consistent with constitutional requirements, and outlining a protocol for the effective, fiscally responsible prosecution of federal capital cases''.

REED (AND OTHERS) AMENDMENT NO. 1008

Mr. HOLLINGS (for Mr. REED, for himself, Mr. HOLLINGS, Mr. MCCAIN, Mr. BURNS, and Mr. DURBIN) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE WITH RESPECT TO SLAMMING.

(a) STATEMENT OF PURPOSE.—The purposes of this statement of the sense of the Senate are to—

(1) protect consumers from the fraudulent transfer of their phone service provider;

(2) allow the efficient prosecution of phone service providers who defraud consumers; and

(3) encourage an environment in which consumers can readily select the telephone service provider which best serves them.

(b) FINDINGS.—The Congress finds the following:

(1) As the telecommunications industry has moved toward competition in the long distance market, consumers have increasingly elected to change the company which provides their long-distance phone service. As many as fifty million consumers now change their long distance provider annually.

(2) The fluid nature of the long distance market has also allowed an increasing number of fraudulent transfers to occur. Such transfers have been termed ''slamming'', which constitutes any practice that changes a consumer's long distance carrier without the consumer's knowledge or consent.

(3) Slamming is now the largest single consumer complaint received by the Common Carrier Bureau of the Federal Communications Commission. As many as one million consumers are fraudulently transferred annually to a telephone consumer which they have not chosen.

(4) The increased costs which consumers face as a result of these fraudulent switches threaten to rob consumers of the financial benefits created by a competitive marketplace.

(5) The Telecommunications Act of 1996 sought to combat this problem by directing that any revenues generated by a fraudulent transfer by payable to the company which the consumer has expressly chosen, not the fraudulent transferor.

(6) While the Federal Communications Commission has proposed and promulgated regulations on this subject, the Commission has not been able to effectively deter the practice of slamming due to a lack of prosecutorial resources as well as the difficulty of proving that a provider failed to obtain the consent of a consumer prior to acquiring that consumer as a new customer. Commission action to date has not adequately protected consumers.

(7) The majority of consumers who have been fraudulently denied the services of their chosen phone service vendor do not turn to the Federal Communications Commission for assistance. Indeed, section 258 of the Communications Act of 1934 directs that State commissions shall be able to enforce regulations mandating that the consent of a consumer be obtained prior to a switch of service.

(8) It is essential that Congress provide the consumer, local carriers, law enforcement, and consumer agencies with the ability to efficiently and effectively persecute those companies which slam consumers, thus providing a deterrent to all other firms which provide phone services.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Communications Commission should, within 12 months of the date of enactment of this Act, promulgate regulations, consistent with the Communications Act of 1934 which provide law enforcement officials dispositive evidence for use in the prosecution of fraudulent transfers of presubscribed customers of long distance and local service; and

(2) the Senate should examine the issue of slamming and take appropriate legislative action in the 105th Congress to better protect consumers from unscrupulous practices including, but not limited to, mandating the recording and maintenance of evidence concerning the consent of the consumer to switch phone vendors, establishing higher civil fines for violations, and establishing a civil right of action against fraudulent providers, as well as criminal sanctions for repeated and willful instances of slamming.

ROBB AMENDMENT NO. 1009

Mr. HOLLINGS (for Mr. ROBB) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 65, line 10, insert the following:

''SEC. 120. There shall be no restriction on the use of Public Safety and Community Policing Grants, authorized under title I of the 1994 Act, to support innovative programs to improve the safety of elementary and secondary school children and reduce crime on or near elementary or secondary school grounds.''

LAUTENBERG (AND HATCH) AMENDMENT NO. 1010

Mr. HOLLINGS (for Mr. LAUTENBERG, for himself and Mr. HATCH) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 75, line 3, strike all beginning with ''$20,000,000,'' through line 8 and insert the following: ''such funds as are necessary, not to exceed 2 percent of projected annual revenues of the Patent and Trademark Office, shall be made available from the sum appropriated in this paragraph for the staffing, operation, and support of said office once a plan for this office has been submitted to the House and Senate Committees on Appropriations pursuant to section 605 of this Act.''.

BIDEN AMENDMENT NO. 1011

Mr. HOLLINGS (for Mr. BIDEN) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, add the following:

''Section 1701(b)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended to read as follows:

''(A) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year.''.

ABRAHAM (AND KENNEDY) AMENDMENT NO. 1012

Mr. GREGG (for Mr. ABRAHAM, for himself and Mr. KENNEDY) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert: ''*Provided further,* That none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service may be used to accept, process, or forward to the Federal Bureau of Investigation any FD–258 fingerprint card, or any other means used to transmit fingerprints, for the purpose of conducting a criminal background check on any applicant for any benefit under the Immigration and Nationality Act unless the applicant's fingerprints have been taken by an office of the Immigration and Naturalization Service or by a law enforcement agency, which may collect a fee for the service of taking and forwarding the fingerprints.''

HATCH AMENDMENT NO. 1013

Mr. GREGG (for Mr. HATCH) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 2, lines 17 through 22, strike the colon on line 17 and all that follows through ''basis'' on line 22.

BURNS AMENDMENT NO. 1014

Mr. GREGG (for Mr. BURNS) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 125, strike lines 3–9.

MCCAIN (AND KYL) AMENDMENT NO. 1015

Mr. GREGG (for Mr. MCCAIN, for himself and Mr. KYL) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

WAIVER OF CERTAIN VACCINATION REQUIREMENTS

SEC. (a) IN GENERAL.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following:

''(p) The Attorney General should exercise the waiver authority provided for in subsection (g)(2)(B) for any alien orphan applying for an IR3 or IR4 category visa.''.

STEVENS AMENDMENT NO. 1016

Mr. GREGG (for Mr. STEVENS) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert:

SEC. . The second proviso of the second paragraph under the heading ''OFFICE OF THE CHIEF SIGNAL OFFICER.'' in the Act entitled ''An Act Making appropriations for the support of the Regular and Volunteer Army for the fiscal year ending June thirtieth, nineteen hundred and one'', approved May 26, 1900 (31 Stat. 206; chapter 586; 47 U.S.C. 17), is repealed.

DEWINE AMENDMENT NO. 1017

Mr. GREGG (for Mr. DEWINE) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place, insert the following:

SEC. . EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE BEEN INVOLVED IN EXTRAJUDICIAL AND POLITICAL KILLINGS IN HAITI.

(a) GROUNDS FOR EXCLUSION.—None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmery, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was a member of the Haitian presidential security unit who has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Pastor Antoine Leroy and Jacques Fleurival, or who was suspended by President Preval for his involvement in or knowledge of the Leroy and Fleurival killings on August 20, 1996;

(4) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to

have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(5) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(6) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term ''appropriate congressional committees'' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

HELMS (AND BIDEN) AMENDMENT NO. 1018

Mr. GREGG (for Mr. HELMS, for himself and Mr. BIDEN) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 114, strike lines 14–23.

WARNER (AND OTHERS) AMENDMENT NO. 1019

Mr. GREGG (for Mr. WARNER, for himself, Mr. LEAHY, and Mr. ROBB) proposed an amendment to the bill, S. 1022, supra; as follows:

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

SEC. 1 . Section 233(d) of the Anti terrorism and Effective Death Penalty Act of 1996 (110 Stat. 1245) is amended by striking ''1 year after the date of enactment of this Act'' and inserting ''October 1, 1999''.

COATS AMENDMENT NO. 1020

Mr. GREGG (for Mr. COATS) proposed an amendment to the bill, S. 1022, supra; as follows:

On page 139, after line 13 insert the following:

GAMBLING IMPACT STUDY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Gambling Impact Study Commission, $1,000,000, to remain available until expended: Provided, That funds made available for this purpose shall be taken from funds made available on page 23, line 21.

STEVENS (AND OTHERS) AMENDMENT NO. 1021

Mr. GREGG (for Mr. STEVENS, Mr. KERRY, and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 1022, supra; as follows:

At the appropriate place in the bill, insert the following: ''*Provided further*, That not to exceed $2,000,000 may be made available for the 1999 Women's World Cup Organizing Committee cultural exchange and exchange related activities associated with the 1999 Women's World Cup.''

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Wednesday, July 30, 1997, at 9:30 a.m. to mark-up S. 569, a bill to amend the Indian Child Welfare Act of 1978; to be followed immediately by an Oversight Hearing on the Special Trustee's ''Strategic Plan'' to reform the management of Indian Trust Funds. The hearing will be held in room 106 of the Dirksen Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Thursday, July 31, 1997, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony from the Forest Service on their organizational structure, staffing, and budget for the Alaska region.

Those who wish to submit written statements should write to the Committee on energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 24, 1997, at 9:30 a.m. in open session, to consider the nomination of John J. Hamre, to be Deputy Secretary of Defense.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 24, 1997, at 9:30 a.m. on management and program weaknesses at NASA and National Science Foundation.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Thursday, July 24, 1997, at 10 a.m. for a hearing on campaign financing issues.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GREGG. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a business meeting Thursday, July 24, 1997, at 9:30 a.m. hearing room (SD–406)

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 24, 1997, at 9:30 a.m. and 11:30 a.m. to hold hearings.

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

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, July 24, 1997, at 9 a.m. in room 226 of the Senate Dirksen Office Building..

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Higher Education Act Reauthorization during the session of the Senate on Thursday, July 24, 1997, at 10 a.m.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources

Subcommittee on Public Health and Safety to authorized to meet for a hearing on National Institutes of Health Reauthorization during the session of the Senate on Thursday, July 24, 1997, at 2 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 24, 1997, at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, July 24, 1997, at 1:30 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: ''Defense Consolidation: Antitrust and Competition Issues.''

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

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR SAFETY

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing Thursday, July 24, at 9:45 a.m., hearing room (SD–406).

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 24, for purposes of conducting a subcommittee hearing which is scheduled to begin at 10 a.m. The purpose of this hearing is to receive testimony on H.R. 858 and S. 1028, to direct the Secretary of Agriculture to conduct a pilot project on designated lands within Plumas, Lasse, and Tahoe National Forests in the State of California to demonstrate the effectiveness of the resource management activities proposed by the Qunicy Library Group and to amend current land and resource management.

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 24, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to review the process by which the National Park Service determines the suitability and feasibility of new areas to be added to the National Park System, and to examine the criteria used to determine national significance.

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

SUBCOMMITTEE ON SECURITIES

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban affairs be authorized to meet during the session of the Senate on Thursday, July 24, 1997, to conduct an oversight hearing on securities litigation abuses.

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

VETERANS' BENEFITS

Mr. GRAMS. Mr. President, I rise to commend the members of the Subcommittee on VA/HUD Appropriations for their work to provide adequate benefits to veterans. In a letter to the Chairman, I urged the subcommittee to support a level of spending that adequately funded veterans' benefits in rightful recognition of their efforts to defend our country in war. I am pleased to learn that the VA will get a full appropriation which shows a total budget increase of $222.6 million above last year and $92.9 million above the President's request.

I also applaud their foresight in voting $68 million additional funding over the President's request for the medical care account. The high priority which the subcommittee placed on this area reflects the heightened concern the country feels for providing appropriate health care to those who have served us so well.

The mandatory spending has also been increased by $1.26 billion over last year for pensions and compensation.

Mr. President, I am pleased that the subcommittee has included a provision which will allow the VA to retain third-party collections, which I have long supported, in addition to the regular appropriation. This additional estimated $604 million will be retained by the VA medical centers giving the care. This will provide much needed additional revenue which should allow the centers to treat more veterans. It will also provide an incentive to improve health care for more veterans at each of the 171 facilities throughout the country.

The committee report supports the restructuring efforts of the Veterans Health Administration; I will be interested to see the results of this effort over the next 5 years as this, too, will improve health care for our veterans. I also share the subcommittee's concerns that the VA has yet to develop a nationwide plan for community-based outpatient clinics to ensure equitable access to medical care nationwide. We will be seeing great changes at the VA in the next few years that will make it a more streamlined and improved provider of services to veterans.

Again, I thank my colleagues on the Appropriations Committee for their efforts to help America's veterans.

PROGRESS FOR WOMEN'S ATHLETICS IN WEST VIRGINIA

• Mr. ROCKEFELLER. Mr. President, I want to reflect on the positive results of our country's growing commitment to equal opportunities for women in college sports and to the elimination of discrimination in our Nation's educational programs. During this time of commemorating the 25th anniversary of title IX, Americans recognize the success of our Nation's athletes as they continue to grow both on the field and in the classroom.

I take this opportunity to commend the achievement of women in college and university sports and to support their advancement in the athletic world. Expanded opportunities for women as a result of title IX have enabled more young women from all arenas to challenge themselves and each other, develop the competitive spirit, and truly enrich their academic lives.

In West Virginia, title IX's impact on college and university sports is made clear by the success of their women's athletic programs. It pleases me to see the competitive spirit grow within West Virginia and to include the aspirations of our daughters as well as our sons. I am proud to commend our individual athletes who deserve praise for their constant and persistent efforts.

Over the past years, West Virginia's fine institutions that include, to cite just one example, Bluefield State College, in Bluefield, WV, have given scholarship money that significantly increased participation in women's athletics. Alderson-Broaddus College in Phillipi, WV, in this past year alone has had an award-winning WVIAC women's softball team, with players like Laura Granger, who balances a competitive sports schedule, her honors GPA, and her enrollment in a difficult sports medicine program.

At the University of Charleston [UC], the Golden Eagles Volleyball Team complied an impressive 29–4 record in 1996 and continues to strive toward success. UC's basketball team is also on the high rise with athletes like Jodie Prenger, who plays Division II basketball and spends the rest of her time devoted to academics.

With a devotion to the team and to their own growth as individuals, these women athletes will provide role models for our future daughters. I can see how perseverence learned in athletics contributes to the academic lives of these high-achieving students.

I am pleased to hear of the progress we as a State have made by supporting greater opportunities for women in sports, and I want to continue to honor

such dedication on the parts of our athletes and school administrators who prize and promote such equality. As the struggle to root out discrimination from all realms of life continues, I am very proud to say West Virginia is a strong part of the extraordinary progress that America is celebrating during title IX's anniversary year.●

EMERITUS LAW PROFESSOR J. WILLARD HURST

● Mr. FEINGOLD. Mr. President, last month, this Nation lost one of its most distinguished scholars when J. Willard Hurst, Emeritus Professor of Law at the University of Wisconsin, died at his home. He was 86.

Professor Hurst was that wonderful and rare combination of truly gifted scholar and great teacher. Indeed, his scholarship was so profound, it was responsible for the creation of a new field of study, and today Willard Hurst is widely recognized as the Founding Father of American legal history.

Hurst was born in Rockford, IL in 1910. He graduated Phi Beta Kappa from Williams College in 1932 and went on to Harvard Law School, where he graduated at the top of his class in 1935.

Hurst worked as a research fellow for Prof. Felix Frankfurter, who was later named to the U.S. Supreme Court, and clerked for Supreme Court Justice Louis D. Brandeis before heading to Wisconsin, at Brandeis's suggestion, where he joined the University of Wisconsin law school faculty.

When Hurst first joined the law school faculty, Dean Lloyd Garrison encouraged him to design a program in law and society that investigated how the State's legal system and economy related to each other. Hurst began that project by studying the law's impact on the State's lumber industry, research that would result in his seminal work, ''Law and Economic Growth: The Legal History of the Wisconsin Lumber Industry.'' That landmark study chronicled the social and economic forces that shaped and used the laws of property, contracts, accident compensation, and other legal areas to destroy the greatest natural stand of timber in the world between 1830 and 1900.

That work was a classic application of the new scholarly discipline of American legal history, a discipline Hurst himself had created—his great legacy and a field he dominated directly or indirectly even in retirement. As Lawrence M. Friedman of Stanford Law School was quoted as saying of legal historians, ''You're either a Hurstian or a revisor of Hurst.''

In a 1990 article in the New York Times about Professor Hurst, David Margolick wrote of the state of the study of law when Hurst attended law school. ''The law was a self-contained science and the law library its laboratory,'' Margolick reported. ''One need not study how law actually affected people or how legal institutions evolved; all wisdom could be gleaned from appellate decisions. This approach not only gave law professors a shot at omniscience but also spared them from having to learn other disciplines, set foot in a courtroom or state legislature, or even step outside.'' As Margolick added, from the moment he arrived at the University of Wisconsin Law School, Professor Hurst changed all that.

University of Wisconsin Emeritus Law Professor Bill Foster said Hurst forced people to think of problems separate from the law in an historic sense and think about the economic, social and political consequences. ''He trained us to see around corners.'' As Stanford Professor Hendrik Hartog noted, Hurst's interest in the relationship between the law and social sciences, especially economics, was really a study of how law was experienced by people.

That approach to studying law found a nurturing home at the University of Wisconsin, which was heavily influenced by the so-called Wisconsin Idea, the Progressive Era philosophy which encouraged scholars to view the entire State as their campus, and which envisioned academics as a vital resource for reform-minded government.

Willard Hurst and Wisconsin were a perfect match. Hurst loved Wisconsin. On three occasions he turned down offers to be Dean of the Yale Law School. He also turned down the offer of a chair at Harvard. Hurst said, ''I guess I was just too pleasure-loving. I was having too good a time in Wisconsin.''

At Wisconsin, Hurst was a prolific writer, contributing to law reviews, writing articles, and authoring over a dozen books, including ''The Law Makers'' (1950), ''Law and Conditions of Freedom'' (1956), ''Law and Social Process in U.S. History'' (1960), ''Justice Holmes on Legal History'' (1964), and ''A Legal History of Money in the United States'' (1973).

Hurst was more than a great original thinker. He was an enormously talented and caring teacher. Robben Fleming, former president of the University of Michigan and former Chancellor of the University of Wisconsin, said that Hurst was the finest teacher he ever had. University of Wisconsin Law Professor Stewart Macaulay said Hurst was wonderfully generous. ''What Willard would do is go out to lunch with someone who was an absolute beginner. He would give you time, make incredible suggestions, make contacts for you.''

Willard Hurst continued to be an academic force in retirement with a steady flow of research and writing. As Margolick reported in the Times, even in retirement Hurst remained one of the few legal scholars whose work could be ''measured in shelf feet—and shelf feet of bona fide research rather than cut-and-paste cases and comments.''

A number of his books became standard texts for law students. In fact, I still remember of the five books I was asked to read before I entered Harvard Law School, two were written by Willard Hurst.

As the acknowledged grandfather of American legal history, Hurst's legacy is not only a new field of study, but generations of law students, and dozens of distinguished scholars. Willard Hurst was a giant intellect, but a gentle giant who cared about his students and who loved his adopted State. I was privileged to have known him.●

CHANGE OF CLOTURE MOTION SIGNATORIES

Mr. GREGG. Mr. President, I ask unanimous consent that Senator FAIRCLOTH's name be removed from the cloture motion filed on July 23 and replaced by Senator SESSIONS.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 186 through 199; the nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy; and the nomination of John Hamre, to be Deputy Secretary of Defense, which was reported from the Armed Services Committee today.

I further ask unanimous consent that the nominations be confirmed, en bloc, the motions to reconsider be laid upon the table, and any statements related to the nominations appear at this point in the RECORD, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confired, en bloc, as follows:

IN THE AIR FORCE

The following Air Force National Guard of the United States officer for appointment in the Reserve of the Air Force, to the grade indicated, under title 10, United States Code, section 12203:

To be brigadier general

Col. Tommy L. Daniels, 1724

The following-named officers for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William J. Begert, 2790
Maj. Gen. Lance W. Lord, 1026

IN THE ARMY

The following-named officers for appointments in the Regular Army to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Edwin J. Arnold, Jr., 8222
Col. John R. Batiste, 9665

Col. Buford C. Blount III, 5012
Col. Steven W. Boutelle, 1030
Col. John S. Brown, 2041
Col. Edward T. Buckley, Jr., 2325
Col. Eddie Cain, 1695
Col. Kevin T. Campbell, 6308
Col. Jonathan H. Cofer, 8459
Col. Bantz J. Craddock, 7782
Col. Keith W. Dayton, 7231
Col. Barbara Doornink, 2221
Col. Paul D. Eaton, 1993
Col. Jeanette K. Edmunds, 9426
Col. Karl W. Eikenberry, 5197
Col. Dean R. Ertwine, 8082
Col. Steven W. Flohr, 7939
Col. Nicholas P. Grant, 1178
Col. Stanley E. Green, 4130
Col. Craig D. Hackett, 5451
Col. Franklin L. Hagenbeck, 3956
Col. Hubert L. Hartsell, 8996
Col. George A. Higgins, 7049
Col. James C. Hylton, 8014
Col. Gene M. LaCoste, 2941
Col. Michael D. Maples, 9508
Col. Philip M. Mattox, 4434
Col. Dee A. McWilliams, 1427
Col. Thomas F. Metz, 5686
Col. Daniel G. Mongeon, 4804
Col. William E. Mortensen, 1064
Col. Raymond T. Odierno, 8425
Col. Eric T. Olson, 5130
Col. James W. Parker, 8655
Col. Ricardo S. Sanchez, 9260
Col. John R. Schmader, 1780
Col. Gary D. Speer, 7286
Col. Mitchell H. Stevenson, 3914
Col. Carl A. Strock, 1502
Col. Charles H. Swannack, Jr., 8239
Col. Hugh B. Tant III, 4312
Col. Terry L. Tucker, 6846
Col. William G. Webster, Jr., 9468
Col. John R. Wood, 0518

The following-named officers for appointment as the Judge Advocate General* and the Assistant Judge Advocate General**, U.S. Army and for appointment to the grade indicated under title 10, United States Code, section 3037:

To be major general

Brig. Gen. Walter B. Huffman, 7206*
Brig. Gen. John D. Altenburg, Jr., 6387**

The following-named officers for appointments in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Montgomery C. Meigs, 3239
Lt. Gen. John N. Abrams, 5774
Maj. Gen. William H. Campbell, 8819
Maj. Gen. Roger G. Thompson, Jr., 5744
Maj. Gen. Michael S. Davison, Jr., 7141

To be general

Gen. William W. Crouch, 4224

The following-named officer for appointment in the Regular Army of the United States to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Warren C. Edwards, 4897

IN THE NAVY

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral

Rear Adm. (lh) Thomas J. Hill, 0703
Rear Adm. (lh) Douglas L. Johnson, 9514
Rear Adm. (lh) Jan H. Nyboer, 8579
Rear Adm. (lh) Paul V. Quinn, 8574

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) John A. Gauss, 5672

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning James W. Adams, and ending Michael B. Wood, which nominations were received by the Senate and appeared in the Congressional Record of June 17, 1997.

Air Force nominations beginning James M. Abatti, and ending Scott A. Zuerlein, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

Army nomination of Juliet T. Tanada, which was received by the Senate and appeared in the Congressional Record of June 17, 1997.

Army nominations beginning Cornelius S. McCarthy, and ending *Todd A. Mercer, which nominations were received by the Senate and appeared in the Congressional Record of June 23, 1997.

Army nominations beginning Terry L. Belvin, and ending James A. Zernicke, which nominations were received by the Senate and appeared in the Congressional Record of June 27, 1997.

Army nominations beginning Daniel J. Adelstein, and ending *Alan S. McCoy, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

Army nomination of Maureen K. Leboeuf, which was received by the Senate and appeared in the Congressional Record of July 8, 1997.

Army nominations beginning James A. Barrineau, Jr., and ending Deborah C. Wheeling, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

Foreign Service nomination of Marilyn E. Hulbert, which was received by the Senate and appeared in the Congressional Record of February 13, 1997.

Foreign Service nominations beginning John R. Swallow, and ending George S. Dragnich, which nominations were received by the Senate and appeared in the Congressional Record of April 25, 1997.

Marine Corps nomination of Thomas W. Spencer, which was received by the Senate and appeared in the Congressional Record of June 23, 1997.

Marine Corps nomination of Dennis M. Arinello, which was received by the Senate and appeared in the Congressional Record of June 23, 1997.

Marine Corps nomination of Carlo A. Montemayor, which was received by the Senate and appeared in the Congressional Record of June 23, 1997.

Marine Corps nominations beginning Demetrice M. Babb, and ending John E. Zeger, Jr., which nominations were received by the Senate and appeared in the Congressional Record of June 27, 1997.

Marine Corps nomination of Anthony J. Zell, which was received by the Senate and appeared in the Congressional Record of July 8, 1997.

Marine Corps nomination of Mark G. Garcia, which was received by the Senate and appeared in the Congressional Record of July 8, 1997.

Navy nominations beginning John A. Achenbach, and ending Sreten Zivovic, which nominations were received by the Senate and appeared in the Congressional Record of June 12, 1997.

Navy nominations beginning Layne M. K. Araki, and ending Charles F. Wrightson, which nominations were received by the Senate and appeared in the Congressional Record of July 8, 1997.

DEPARTMENT OF DEFENSE

John J. Hamre, of South Dakota, to be Deputy Secretary of Defense.

STATEMENTS ON THE NOMINATION OF JOHN J. HAMRE FOR DEPUTY SECRETARY OF DEFENSE

Mr. DASCHLE. Mr. President, it is a distinct pleasure for me to convey to the entire Senate what I communicated to the Senate Armed Services Committee earlier today—I am an enthusiastic supporter of John Hamre for Deputy Secretary of Defense. I am pleased to note that the committee reported out his nomination unanimously. Evidently they, like many of their colleagues, are already well aware of John's exceptional background and skills, and his impressive record. Therefore, I will not belabor these points—except to say that I think they make John an excellent choice for this critically important post.

Less known to some of my colleagues perhaps is the fact that John is from South Dakota, my home State. In fact, John was born in the tiny town of Willow Lake, South Dakota and grew up in Clark, SD. His rise to the No. 2 civilian position in the world's number one military force is a tribute not only to John and his family, but to the entire state of South Dakota and its people.

Like many of the families in our state, John's family's story reads like a Charles Kuralt profile of small-town America. His maternal grandfather was a Lutheran preacher who lived to be 100 years old (which should eliminate any chance of John having to take an early retirement). His paternal grandfather was a farmer and county sheriff. One of John's uncles, Julian, was killed in action as an aviator in the Pacific during World War II. John's father, Mel, was a banker and his mother, Ruth, was a teacher. They have lived in Clark all their adult lives. If you happen to visit Clark on a Sunday morning, chances are you would hear them performing with their church choir.

John graduated with a degree in political science from Augustana College in Sioux Falls, SD. After that, he did what every political scientist does: headed off to Harvard to earn a masters degree in Divinity. It was the first time he had ever really been away from South Dakota. From Harvard, John went on to earn a masters degree and doctorate degree in 1978 from the Johns Hopkins School of Advanced International Studies. I would just note parenthetically: If John is confirmed, he may be the first Deputy Secretary of Defense who can say the Lord's Prayer—in Russian.

After graduate school, John joined the staff of the Congressional Budget Office [CBO]. In 1984, he joined the staff of the Senate Armed Services Committee, where he developed a reputation for being able to work closely with both sides of the aisle.

John was appointed Undersecretary of Defense—comptroller by former Defense Secretary Les Aspin. In his new position, John will be the second highest-ranking civilian in the Pentagon's

chain of command. The Deputy Secretary of Defense is one of the most critical national security positions in the U.S. Government. He or she is given full power and authority to act for the secretary of Defense in the secretary's absence.

As a indication of the trust and confidence Secretary Cohen has in John's talents, he recently asked John to head up the Defense Management Reform Task Force—perhaps the most critical study the Pentagon will undertake in the next decade or so. If our available defense resources are to match our proclaimed defense policies for the 21st century, it is crucial that the Pentagon adopt more efficient business methods. The task force John will head is charged with the responsibility of overhauling the Defense Department's accounting methods and streamlining its business practices. Such reforms are long overdue and much needed if we are to get a dollar of defense for each dollar we provide the Pentagon. On behalf of the Congress, I wish John well in this endeavor and will be closely following his progress.

Anyone who has spent any time with John Hamre knows his passion for defense policy. From his days at CBO in the late 1970's to his present position at the Department of Defense, he has demonstrated time and again his mastery of defense policy issues. Throughout his career, Dr. Hamre has consistently demonstrated an even-handedness and objectivity. That has allowed him, in turn, to establish and maintain good relations with members of the Congress. The regard in which he is held by both parties will enable him to serve the President well. Even more importantly, it will enable him to serve his country well.

In conclusion, it is an honor and a privilege to commend a true South Dakotan, a man who has dedicated his life to integrity, love of his country and outstanding achievement, and who will serve his country well as Deputy Secretary of Defense.

Mr. GRASSLEY. Mr. President, I come to the floor today to announce my support for Mr. John J. Hamre's nomination to be the next Deputy Secretary of Defense.

Mr. President, my support in favor of the Hamre nomination may come as a surprise to some of my colleagues.

A yes vote on the Hamre nomination may appear to be totally inconsistent with all that I have said here on the floor about the nominee.

I have made a series of critical speeches about Mr. Hamre since January.

I have criticized Mr. Hamre for failing to control the money and make sure it is spent according to law.

I have attempted to hold him accountable.

In my book, accountability in government should be a top priority.

My criticism of Mr. Hamre boils down to one main problem area.

As Chief Financial Officer at the Department of Defense [DOD], Mr. Hamre pursued a policy on progress payments that the Inspector General [IG] had declared illegal.

The General Accounting Office [GAO] has just completed another review of the Department's progress payment policy.

As of July 21, 1997, the GAO report indicates that the policy declared illegal by the IG remains in operation.

It remains in operation today—at this very moment.

Mr. President, I am happy to report that Mr. Hamre has promised to change the policy.

He has made a commitment to bring the Department's progress payment policy into compliance with the law.

This happened at an important meeting on Tuesday evening, July 22d.

The meeting took place in the office of Senator STROM THURMOND, chairman of the Armed Services Committee.

This meeting was attended by Senators THURMOND, LEVIN, WARNER, and the Senator from Iowa.

The nominee, Mr. Hamre, was also present.

Mr. President, I don't quite know how this meeting came about, but I suspect that my good friend from Virginia, Senator WARNER, was the motivating force behind it.

I would like to extend a special word of thanks to my friend from Virginia for helping me out.

He helped me find a reasonable solution to a very difficult dilemma.

The Senator from Virginia was instrumental in resolving the dispute.

At this important meeting, Mr. Hamre made a commitment to bring the department's progress payment policy into compliance with the law.

To do that, the IG says DOD has taken two distinct steps.

Step One: The Director of Defense Procurement, Ms. Eleanor Spector, is issuing a new contract regulation—known as a DFAR.

The DFAR will authorize contracting officers—or ACO's—to require that each contract contains specific funding instructions.

These would be fund citations.

Step Two: The Comptroller, Mr. Hamre, has ordered the Defense Finance and Accounting Service or DFAS to shut down the current operation.

DFAS must issue payment instructions that match up with the DFAR.

This would allow DFAS to match the money with the work performed—as required by law.

This would allow the disbursing officers to post payments to the correct accounts.

Since DOD makes about $20 billion a year in progress payments, this should help to clean up the books.

It should cut down on overpayments and erroneous payments.

It should cut down on costly reconciliation work done by the big accounting firms like Coopers & Lybrand.

The new policy should save money.

But the fix won't happen overnight.

It will take time to phase down the old system and get the new policy up and running.

The IG is planning on a kick off date of October 1, 1997.

At the meeting, Senator LEVIN raised questions about the cost of the new policy.

Mr. Hamre responded by saying that he would have to add 50 people to the DFAS work force.

The extra people would be needed to manually process the payments under the new policy.

The software necessary to support automated computer processing will not be available until the year 2000 or beyond, according to Mr. Hamre.

Now, Mr. President, that sounds like more Pentagon nonsense to me.

Businesses, like NationsBank, routinely conduct 15.5 million comparable matching operations in a single day—using computers.

The software is here—now!

This is off-the-shelf stuff—not leading edge technology.

DFAS needs to get on the stick.

Senator LEVIN also insisted that the new policy should apply just to new contracts—and not be retroactive.

That makes sense to me.

Senator LEVIN raised one other very valid concern.

He said: ''Maybe we need to change the law? Maybe the law governing these payments doesn't make sense?''

These are valid questions. They need to be explored.

But I would like to offer a word of caution on this point.

If Congress should decide to change the law—as Mr. Hamre proposed late last year, Congress must then change the way the money is appropriated.

We must never allow DOD to merge the appropriations at the contract level, while Congress continues to appropriate and segregate money in special accounts.

That would subvert the whole appropriations process.

If DOD were authorized to merge the money at the contract level, then Congress would have to consolidate accounts upstream in appropriations.

We might, for example, create an acquisition account by merging R&D and procurement money in one big account.

Quite frankly, Mr. President, I don't think that idea would be a very popular around here.

Segregating the money in the R&D and procurement accounts gives Congress some broad and general control over how the money is used—as intended by the Constitution.

Mr. President, I left the meeting in Sentor THURMOND's office believing that something important had been accomplished.

First, Mr. Hamre made a commitment to bring the Department's policy into compliance with the law.

Second, it was agreed that the IG would send a letter to the committee.

This letter would serve two purposes.

The IG would certify that the Department had taken the two steps necessary to bring the policy into compliance with the law.

And the IG would agree to provide Congress with periodic follow-up reports to ensure that the new policy is, in fact, executed.

Mr. President, I have the IG's letter here in my hand.

It provides the assurances I sought.

With those assurances in hand, I can support the Hamre nomination with a clear conscience.

I ask unanimous consent that my letter requesting certification by the IG and the IG's response be printed in the RECORD.

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, July 23, 1997.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for my views as to whether the Department of Defense has made a good faith effort to address previous audit findings on progress payments to contractors and whether the Department has established a reasonable schedule to implement the changes needed to bring progress payment practices into compliance with fiscal law.

On June 30, 1997, the Director, Defense Procurement, issued the requisite contracting guidance in draft form for comment. While we cannot prejudge or speculate as to the outcome of the comment period, I can tell you that at this time this office concurs with the draft guidance as written. The guidance should be issued in final form by October 1, 1997.

The first elements of the necessary guidance for paying offices, two Under Secretary of Defense (Comptroller) memoranda, were signed out today. Given current statutory requirements, we believe that the procedures and timelines outlined in those memoranda are appropriate at this time and demonstrate positive movement toward fixing this longstanding problem. Between now and the planned October 1, 1997, implementation date for the new progress payment distribution policy, we will work with the Comptroller and the Defense Finance and Accounting Service to ensure that sound desk procedures are developed for the paying offices.

This office is already auditing various aspects of DoD vendor payment operations and will ensure that coverage of the implementation of the new progress payment procedures receives high priority. We will provide periodic status reports to the Department and the Congress starting in January 1998.

Thank you for seeking our views on this important issue. If we can be of further assistance in this matter, please contact me or Mr. Robert J. Lieberman, Assistant Inspector General for Auditing, at (703) 604–8900.

Sincerely,

ELEANOR HILL,
Inspector General.

U.S. SENATE,
Washington, DC, July 21, 1997.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC

DEAR JOHN: I am writing to clarify my position on the nomination of Mr. John J. Hamre to be Deputy Secretary of Defense.

My opposition to Mr. Hamre's nomination boils down to one main problem area. As Chief Financial Officer at the Department of Defense, Mr. Hamre aggressively pursued a policy on progress payments that the Inspector General (IG) declared illegal. The General Accounting Office has just completed a review of the department's progress payment policy. This report clearly indicates that the policy declared illegal by the Inspector General remains in operation today—at this very moment.

John, that's the bad news. There is some good news, however.

I can see a solution looming up on the horizon.

The IG is telling me that Mr. Hamre is moving to bring the policy into compliance with the law. The IG says that the department must issue: 1) new contract (DFAR) regulations; and 2) The Defense Finance and Accounting Service must issue new payment instructions to match the DFAR regulations. The IG says the new policy directives are in the process of being issued. The new policy must then be put into practice.

John, I will not oppose the Hamre nomination if two conditions are met: 1) The IG certifies in writing that the department has taken the two steps necessary to bring the policy into compliance with the law; and 2) The IG provides Congress with periodic reports to ensure that the new policy is, in fact, being executed.

Your assistance in this matter is appreciated.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, July 24, 1997.

Senator CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC

DEAR CHUCK: Enclosed is a copy of a letter from the Department of Defense Inspector General received today by the Committee on Armed Services. The letter addresses the concerns that you expressed in the meeting in my office on July 22.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND,
Chairman.

Mr. GRASSLEY. Mr. President, I only hope Mr. Hamre understands my position on this issue.

From day one, I have merely tried to hold him accountable for the improper progress payment policy.

I do my best to watchdog the Pentagon.

And when the IG tells me something is wrong, then I'm going to speak out. I'm going to dig and bore in—until things are right.

That's what I did in this case.

I believe that together we have crafted a constructive solution to this problem.

I thank the committee for its leadership and for helping me resolve this issue.

Mr. LEVIN. Mr. President, I strongly support the nomination of Dr. John Hamre to be Deputy Secretary of Defense. The position of the Deputy Secretary of Defense is one of the most important members of the Secretary of Defense's team. The Deputy serves as the Secretary's alter ego; he traditionally exercises primary responsibility for the internal management of the Department of Defense; and he acts for the Secretary when the Secretary is absent.

Those are all very important responsibilities. The decisions that Secretary Cohen and his deputy make will have a major impact on the security of our Nation, on the protection of our national interests, and on the well-being of the men and women of our Armed Forces. I have complete confidence in John Hamre's ability to perform these important responsibilities.

John is, of course, very well known to many Members of the Senate from the 8 years he spent on the staff of the Senate Armed Services Committee. Since leaving the committee staff in 1993, John has moved on to serve as the Comptroller and Chief Financial Officer of the Department of Defense.

In this capacity, John has devoted a tremendous amount of time and energy to bringing about meaningful and much-needed reform in financial management within DOD. John would be the first to acknowledge that the job is far from finished, but the progress under his leadership has been substantial in my view. For example:

DOD is in the process of consolidating its accounting offices, moving from 333 offices to only 21 in less than 5 years. DOD had closed 230 accounting offices through fiscal year 1996 and is scheduled to close an additional 103 in fiscal year 1997 and fiscal year 1998.

As a result, DOD has been able to reduce employment at the Defense Finance and Accounting Service [DFAS] from more than 31,000 in fiscal year 1993 to 24,000 today. DFAS operating costs have dropped 25 percent in 4 years, from $1.6 billion in fiscal year 1993 to $1.2 billion in fiscal year 1997, in constant fiscal year 1993 dollars.

DOD has consolidated its civilian pay systems from 25 systems in fiscal year 1991 to 2 systems today and hopes to be down to a single system next year. The system that DOD has designated to take over all civilian pay accounts has gone from handling 15 percent of DOD accounts in fiscal year 1992 to a projected 73 percent in fiscal year 1996 and 83 percent in fiscal year 1997.

DOD has consolidated its military pay systems from 24 systems in fiscal year 1991 to 4 systems today and hopes to be down to 2 systems next year, with only the Marine Corps maintaining a separate system. The system that DOD has designated to take over all military pay accounts has gone from handling 15 percent of DOD accounts, other than Marine Corps accounts, in fiscal year 1991 to a projected 65 percent in fiscal year 1996 and 90 percent in fiscal year 1997.

DOD contract overpayments have dropped from $592 million in fiscal year 1993 to $184 million in fiscal year 1996.

The two most significant categories of problem disbursements—unmatched disbursements and negative unliquidated obligations [NULO]—have dropped from $34.3 billion in June 1993 to $7.9 billion in January 1997. Unmatched disbursements are cases in which a payment has been made, but cannot be matched to its obligation authority; NULO's are cases in which too much money is disbursed, for example, contractor overpayments, or the wrong obligation has been charged.

The third category of problem disbursements—in-transit disbursements—has increased recently, but is still down substantially over the long run, from $16.8 billion in June 1993 to $11.1 billion in January 1997. In-transit disbursements are cases in which a payment has been made, but the obligation has not yet been matched to its obligation authority, and more than 180 days have passed.

Over the last several months, a number of statements have been made about Dr. Hamre's handling of progress payments under complex contracts using money from more than one appropriation. While there is no evidence that the existing progress payment system has ever resulted in a violation of the Antideficiency Act, Dr. Hamre has acknowledged that this system is incapable of meeting all applicable requirements, and he has been working hard to address the problem.

On Wednesday afternoon, I received a letter from Eleanor Hill—the inspector general of the Department of Defense—who first identified the progress payment issue. In response to a joint request from the chairman of the Armed Services Committee and myself, Ms. Hill reviewed the steps taken by Dr. Hamre to address the progress payment issue. Her letter concludes:

> Given current statutory requirements, we believe that the procedures and timelines outlined in those memoranda are appropriate at this time and demonstrate positive movement toward fixing this longstanding problem.

I am pleased that Dr. Hamre has taken the actions necessary to address the progress payment issue in compliance with existing requirements. But we also need to make sure that these changes are in the best interest of the taxpayers and the Department of Defense. I have asked Dr. Hamre to review the issue and let the Armed Services Committee know if any legislative changes may be needed in this regard.

Mr. President, I think President Clinton and Secretary Cohen have made an excellent choice with this nomination. I strongly support John Hamre's nomination to be Deputy Secretary of Defense, Mr. Chairman, and I look forward to working closely with him and Secretary Cohen in the future.

Mr. President, I ask unanimous consent that Ms. Hill's letter be printed in the RECORD.

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

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, July 23, 1997.

Hon. CARL LEVIN,
Committee on Armed Services,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: This is in response to your request for my views as to whether the Department of Defense has made a good faith effort to address previous audit findings on progress payments to contractors and whether the Department has established a reasonable schedule to implement the changes needed to bring progress payment practices into compliance with fiscal law.

On June 30, 1997, the Director, Defense Procurement, issued the requisite contracting guidance in draft form for comment. While we cannot prejudge or speculate as to the outcome of the comment period, I can tell you that at this time this office concurs with the draft guidance as written. The guidance should be issued in final form by October 1, 1997.

The first elements of the necessary guidance for paying offices, two Under Secretary of Defense (Comptroller) memoranda, were signed out today. Given current statutory requirements, we believe that the procedures and timelines outlined in those memoranda are appropriate at this time and demonstrate positive movement toward fixing this longstanding problem. Between now and the planned October 1, 1997, implementation date for the new progress payment distribution policy, we will work with the Comptroller and the Defense Finance and Accounting Service to ensure that sound desk procedures are developed for the paying offices.

This office is already auditing various aspects of DoD vendor payment operations and will ensure that coverage of the implementation of the new progress payment procedures receives high priority. We will provide periodic status reports to the Department and the Congress starting in January 1998.

Thank you for seeking our views on this important issue. If we can be of further assistance in this matter, please contact me or Mr. Robert J. Kieberman, Assistant Inspector General for Auditing, at (703) 604–8900.

Sincerely,

ELEANOR HILL,
Inspector General.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE READ FOR THE FIRST TIME—S. 1065

Mr. GREGG. Mr. President, I understand that S. 1065, which was introduced earlier today by Senator SPECTER, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1065) to amend the Ethics in Government Act with respect to the appointment of independent counsel.

Mr. GREGG. I now ask for its second reading, and object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard.

The bill will remain at the desk and have its next reading on the next legislative day.

ORDERS FOR FRIDAY, JULY 25, 1997

Mr. GREGG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Friday, July 25. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately begin consideration of Calendar No. 120, Senate Resolution 98, the global warming resolution.

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

PROGRAM

Mr. GREGG. For the information of all Members, tomorrow the Senate will begin consideration of Senate Resolution 98, the global warming resolution. By previous consent, there are two amendments in order to the resolution with a vote on the resolution occurring at 11:30 a.m. Following disposition of Senate Resolution 98, the Senate may proceed to a cloture on the tuna-dolphin legislation, if an agreement is not reached prior to the global warming resolution. Also, by consent, at 5 p.m. on Monday, the Senate will begin consideration of the transportation appropriations bill. However, as announced by the majority leader, there will be no rollcall votes during Monday's session of the Senate. As a reminder to all Members, following the votes on Friday, the next votes will be a series of votes occurring on Tuesday at 9:30 a.m. on the Commerce, Justice, State appropriations bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GREGG. 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 10:22 p.m., adjourned until Friday, July 25, 1997, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 24, 1997:

THE JUDICIARY

CHARLES R. BREYER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE D. LOWELL JENSEN, RETIRED.

FRANK C. DAMRELL, JR., OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA VICE EDWARD J. GARCIA, RETIRED.

MARTIN J. JENKINS, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE EUGENE F. LYNCH, RETIRED.

JORGE C. RANGEL, OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE WILLIAM L. GARWOOD, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 24, 1997:

DEPARTMENT OF DEFENSE

JOHN J. HAMRE, OF SOUTH DAKOTA, TO BE DEPUTY SECRETARY OF DEFENSE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING AIR FORCE NATIONAL GUARD OF THE U.S. OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be brigadier general

COL. TOMMY L. DANIELS, 1724.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM J. BEGERT, 2790.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. LANCE W. LORD, 1026.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. EDWIN J. ARNOLD, JR., 8222.
COL. JOHN R. BATISTE, 9665.
COL. BUFORD C. BLOUNT, III, 5012.
COL. STEVEN W. BOUTELLE, 1030.
COL. JOHN S. BROWN, 2041.
COL. EDWARD T. BUCKLEY, JR., 2325.
COL. EDDIE CAIN, 1695.
COL. KEVIN T. CAMPBELL, 6308.
COL. JONATHAN H. COFER, 8459.
COL. BANTZ J. CRADDOCK, 7782.
COL. KEITH W. DAYTON, 7231.
COL. BARBARA DOORNINK, 2221.
COL. PAUL D. EATON, 1993.
COL. JEANETTE K. EDMUNDS, 9426.
COL. KARL W. EIKENBERRY, 5197.
COL. DEAN R. ERTWINE, 8082.
COL. STEVEN W. FLOHR, 7939.
COL. NICHOLAS P. GRANT, 1178.
COL. STANLEY E. GREEN, 4130.
COL. CRAIG D. HACKETT, 5451.
COL. FRANKLIN L. HAGENBECK, 3956.
COL. HUBERT L. HARTSELL, 8996.
COL. GEORGE A. HIGGINS, 7049.
COL. JAMES C. HYLTON, 8014.
COL. GENE M. LACOSTE, 2941.
COL. MICHAEL D. MAPLES, 9508.
COL. PHILIP M. MATTOX, 4434.
COL. DEE A. MCWILLIAMS, 1427.
COL. THOMAS F. METZ, 5686.
COL. DANIEL G. MONGEON, 4804.
COL. WILLIAM E. MORTENSEN, 1064.
COL. RAYMOND T. ODIERNO, 8425.
COL. ERIC T. OLSON, 5130.
COL. JAMES W. PARKER, 8655.
COL. RICARDO S. SANCHEZ, 9260.
COL. JOHN R. SCHMADER, 1780.
COL. GARY D. SPEER, 7286.
COL. MITCHELL H. STEVENSON, 3914.
COL. CARL A. STROCK, 1502.
COL. CHARLES H. SWANNACK, JR., 8239.
COL. HUGH B. TANT, III, 4312.
COL. TERRY L. TUCKER, 6846.
COL. WILLIAM G. WEBSTER, JR., 9468.
COL. JOHN R. WOOD, 0518.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT AS THE JUDGE ADVOCATE GENERAL* AND THE ASSISTANT JUDGE ADVOCATE GENERAL**, U.S. ARMY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 3037:

To be major general

BRIG. GEN. WALTER B. HUFFMAN, 7206*.
BRIG. GEN. JOHN D. ALTENBURG, JR., 6387**.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. MONTGOMERY C. MEIGS, 3239.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JOHN N. ABRAMS, 5774.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM H. CAMPBELL, 8819.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. WILLIAM W. CROUCH, 4224.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROGER G. THOMPSON, JR., 5744.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL S. DAVISON, JR., 7141.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be major general

BRIG. GEN. WARREN C. EDWARDS, 4897.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be rear admiral

REAR ADM. (LH) THOMAS J. HILL, 0703.
REAR ADM. (LH) DOUGLAS L. JOHNSON, 9514.
REAR ADM. (LH) JAN H. NYBOER, 8579.
REAR ADM. (LH) PAUL V. QUINN, 8574.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral

REAR ADM. (LH) JOHN A. GAUSS, 5672.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING JAMES W ADAMS, AND ENDING MICHAEL B WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 17, 1997

AIR FORCE NOMINATIONS BEGINNING JAMES M ABATTI, AND ENDING SCOTT A ZUERLEIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997

IN THE ARMY

ARMY NOMINATION OF JULIET T. TANADA, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 17, 1997

ARMY NOMINATIONS BEGINNING CORNELIUS S. MCCARTHY, AND ENDING * TODD A. MERCER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1997

ARMY NOMINATIONS BEGINNING TERRY L. BELVIN, AND ENDING JAMES A. ZERNICKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 27, 1997

ARMY NOMINATIONS BEGINNING DANIEL J. ADELSTEIN, AND ENDING * ALAN S. MCCOY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997

ARMY NOMINATION OF MAUREEN K. LEBOEUF, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997

ARMY NOMINATIONS BEGINNING JAMES A. BARRINEAU, JR., AND ENDING DEBORAH C. WHEELING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF THOMAS W. SPENCER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1997.

MARINE CORPS NOMINATION OF DENNIS M. ARINELLO, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1997.

MARINE CORPS NOMINATION OF CARLO A. MONTEMAYOR, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1997.

MARINE CORPS NOMINATIONS BEGINNING DEMETRICE M. BABB, AND ENDING JOHN E. ZEGER, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 27, 1997.

MARINE CORPS NOMINATION OF ANTHONY J. ZELL, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997.

MARINE CORPS NOMINATION OF MARK G. GARCIA, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997.

IN THE NAVY

NAVY NOMINATIONS BEGINNING JOHN A. ACHENBACH, AND ENDING SRETEN ZIVOVIC, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 12, 1997.

NAVY NOMINATIONS BEGINNING LAYNE M.K. ARAKI, AND ENDING CHARLES F. WRIGHTSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1997.