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Senate

TIME TO CLEAN UP AMERICA'S COAL-FIRED POWERPLANTS

Mr. LEAHY. Mr. President, the Senate will soon recess until the beginning of this Congress' second Session in January of 1998. That provides time to develop a thoughtful proposal on one of the most pressing environmental threats confronting the United States as a whole, and especially the Midwest and the Northeast: namely, the rivers of pollution that stream from the smokestacks of hundreds of old coal-fired powerplants, especially in the Midwest.

These powerplants are collectively the source of enormous amounts of air pollution. Mercury poisons lakes and streams, as well as the fish that swim in them. Oxides of nitrogen not only create groundlevel ozone that chokes almost every major America city, but are transformed into acids that contribute to both acid rain and fine particulate matter. Together with the fine particles formed by sulfur dioxide emissions, they contribute to tens of thousands of unnecessary deaths. Finally, carbon-rich coal adds to global warming, which has increased the temperatures of Earth's air, oceans, and soils, while raising sea levels and triggering meltdowns of glaciers and icecaps. If you want to see the effects of this pollution, you need only to hike to the top of Camel's Hump in the Green Mountains, or talk to the fishermen in Missisquoi Bay who catch fish contaminated with mercury, or measure the increasing acid deposition in pristine lakes within Vermont wilderness areas.

Mr. President, none of this is necessary and eliminating these problems need not trigger the sort of regional conflicts that characterized the sometimes bitter ten year struggle to enact a federal program to control acid rain. There are ways of burning coal so that it produces only a tiny fraction of the air pollution now being emitted by these powerplants. And, since virtually all of these powerplants are reaching the age at which significant investment is required to keep them on line, the nation has a unique and valuable opportunity to address the problem.

Steps should be taken not only to prevent further degradation of our environment, but also to ensure fairness in retail electricity competition. When Congress passed the Clean Air Act in

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JOHN WARNER, *Chairman.*

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1970, many of the old, dirty powerplants that were expected to close down were granted exemptions to the strict air pollution control requirements that applied to new facilities. Yet, twenty years later, these old plants continue to operate and enjoy a substantial, unfair competitive economic advantage over electric generators with pollution control technology.

If ways can be found to assure that investments are made in clean technologies, pollution of almost every sort can be sharply reduced and, in likelihood, so can electricity rates. Contrary to the recent wave of doomsday advertising paid for by multi-million dollar electric utility companies, this can be done without jeopardizing our economy. Vermont has shown how jobs can be created through renewable energy and energy efficient technology.

It is clear, Mr. President, that these new technologies and the expertise in building and operating them, will be needed by every nation in the world. If the United States can be the first to master these new engines of the future, we can also be the first to build and export them.

The challenge, Mr. President, is to find the proper combination of measures. During the coming winter, I hope and intend to work with my colleagues and others to identify those measures.

AMENDING THE COMMUNICATIONS ACT OF 1934

Mr. MCCAIN. Mr. President, I would like to discuss a very important bill that I first introduced on October 31, 1997. The bill, S. 1354, which is cosponsored by Senators CAMPBELL, STEVENS, INOUYE, DASCHLE, and DORGAN, is an amendment to the Communications Act of 1934. The amendment enables the Federal Communications Commission [FCC] to designate common carriers not under the jurisdiction of a State commission as eligible recipients of universal service support.

Universal Service provides intercarrier support for the provision of telecommunications services in rural and high-cost areas throughout the United States. However, section 254(e) of the Communications Act states that only an eligible carrier designated under section 214(e) of the Communications Act, shall be eligible to receive specific Federal universal support after the FCC issues regulations implementing the new universal service provisions into the law. Section 214(e) does not account for the fact that State commissions in a few States have no jurisdiction over certain carriers. Typically, States also have no jurisdiction over tribally owned common carriers which may or may not be regulated by a tribal authority that is not a State commission per se.

The failure to account for these situations means that carriers not subject to the jurisdiction of a State commission have no way of becoming an eligible carrier that can receive universal service support. This would be the case whether these carriers are traditional local exchange carriers that provide services otherwise included in the program, have previously obtained universal service support, or will likely be the carrier that continues to be the carrier of last resort for customers in the area.

This simple amendment will address this oversight within the amendments made by the Telecommunications Act of 1996, and prevent the unintentional consequences it will have on common carriers which Congress intended to be covered under the umbrella of universal service support.

Mr. DASCHLE. Would this bill have any effect on the existing jurisdiction of State commissions over new or incumbent local exchange carriers, or providers of commercial mobile radio services?

Mr. MCCAIN. No, this bill does nothing to alter the existing jurisdiction that State commissions already have over local exchange carriers or providers of commercial mobile radio services as set forth in section 332(c)(3) of the Communications Act. Nor will this bill have any effect on litigation that may be pending regarding jurisdictional issues between the States and federally recognized tribal governments. I thank the Democratic leader for his interest in this matter.

Mr. DASCHLE. I thank the Senator for his clarification of this matter.

VETERANS DAY

Mr. ABRAHAM. Mr. President, I rise today in recognition of Veterans Day, that day on which all of us are called on to honor the sacrifices made for our country by those who serve in her armed forces and those who risked or gave their lives defending her.

It is only right, Mr. President, that we pay tribute to the brave men and women who put their country before themselves in time of danger. On the beaches of Normandy or in the jungles of Vietnam, in the South Pacific or the Persian Gulf, on the shores of Inchon or the deserts of North Africa, our soldiers and sailors have defended this country around the globe, in the face of bombs, bullets, disease and hunger. Nothing we do can repay the debt we owe them. But we must note that debt, recognize it and make certain our children know how great it is.

As we remember the brave young people who have defended our nation in time of war, we should not forget that many of them put their lives on the line for America even though they were born in a different land. These soldiers and sailors were not born in this country. But they loved her enough to risk their lives to protect her.

Over 60,000 active military personnel are immigrants to this country. More than 20 percent of recipients of our highest military declaration, the Congressional Medal of Honor, have been immigrants. And the most decorated combat team of World War II was a regiment made up of the sons of Japanese immigrants.

Many immigrants have made the ultimate sacrifice for our country. More than once I have told audiences the story of Nicolas Minue, the Polish born soldier who served the United States in World War II. I tell this story because of the inspiring bravery that is its subject, because of the pride it should evoke in every American, native or foreign born.

In Tunisia in 1943, private Minue's company was pinned down by enemy machine gunfire.

According to the official report, ''Private Minue voluntarily, alone, and unhesitatingly, with complete disregard of his own welfare, charged the enemy entrenched position with fixed bayonet. Private Minue assaulted the enemy under a withering machine-gun and rifle fire, killing approximately ten enemy machine gunners and riflemen. After completely destroying this position, Private Minue continued forward, routing enemy riflemen from dugout positions until he was fatally wounded. The courage, fearlessness and aggressiveness displayed by Private Minue in the face of inevitable death was unquestionably the factor that gave his company the offensive spirit that was necessary for advancing and driving the enemy from the entire sector.''

America remains free because she has been blessed with many American heroes, willing to give their lives in her defense. Nicolas Minue showed that not every American hero was born in America.

Michigan, too, has her share of heroes. More than once, I have related the story of Francisco Vega, a citizen of my state who was born and raised in San Antonio, Texas, the son of Mexican immigrants. His father, Naba Lazaro Vega served in the American Army during World War I. I tell Mr. Vega's story because it, too, is one of inspiring bravery and love of country.

Mr. Vega volunteered for the Army in October 1942 and served during the Second World War. He fought for the Americans in five major battles in Europe, including the crucial landing at Omaha Beach in Normandy. He was awarded bronze stars for bravery in each of these five battles. Mr. Vega was discharged in December 1945 and came to Michigan, where he attended the University of Michigan in Ann Arbor and graduated from Aquinas College in Grand Rapids. He retired from his own cemetery business in 1993 and currently resides in Grand Rapids.

In Vietnam, also, immigrants served our nation and became heroes. For example, Alfred Rascon immigrated to the U.S. from Mexico. At age 20, while a lawful permanent resident, Mr. Rascon volunteered to serve in Vietnam. During a firefight he twice used his body to shield wounded soldiers. He was nearly killed dashing through heavy enemy fire to get desperately

needed ammunition, but refused medical attention until the wounds of all the other soldiers in his unit were tended. Asked why he showed such courage even though he was not yet a U.S. citizen, Mr. Rascon replied ''I was always an American in my heart.'' So impressed were they by his bravery that fellow soldiers who witnessed his acts have urged that he receive the Medal of Honor.

I could tell many more such stories. But let these three suffice to show the commitment to America's ideals and way of life that has been shown by so many brave young soldiers and sailors over the years.

We owe a debt to all these people for keeping our nation free and safe in a dangerous world. And we owe a continuing debt of gratitude to those today who serve, guarding our country, our homes and our freedom. Like all good things, freedom must be won again and again. I hope all of us will remember those, immigrants and native born, who have won freedom for us in the past, and stand ready to win freedom for us again, if they must.

May we never forget our debt to the brave who have fallen and the brave who stand ready to fight.

I yield the floor.

RECOGNIZING JEAN FORD FOR HER CONTRIBUTIONS TO THE GREAT STATE OF NEVADA

Mr. REID. Mr. President, I rise today to pay tribute to a Nevadan whose dedication, foresight and work on behalf of women and minorities has profoundly changed the face of the Silver State. Jean Ford can be called a role model and an inspiration for generations to come, not only in Nevada but across our great Nation. Time and again she has given of herself to better the lives of those around her and she has created a legacy that will long endure in the history of Nevada.

Jean Ford has been a State legislator, an educator, a successful businesswoman and I am proud to say a true friend to me and my family. Over the years we worked together on a great many projects, and I have come to deeply admire Jean's compassion for all people, and her devotion to protecting and preserving Nevada's natural beauty.

I first met Jean Ford more than 25 years ago when she was elected to Nevada's State Assembly. Jean quickly rose to become a driving force for women's equality in Nevada, introducing the equal rights amendment in our State and working to end sex discrimination and break down long standing gender barriers. Through the years, her work in the legislature also carried over to other minority groups who found in Jean a voice, and a visionary willing to lead them on what was often a long, hard struggle for equal treatment under the law. Senior citizens, the disabled, single mothers, they were all important to Jean, and in turn, she helped make them important to each of us.

It was through working with Jean that I came to realize the importance of many of the issues that I have taken on in my own legislative career. Women's health, child care, the environment, equal rights, protecting our seniors and the list goes on. I also owe her a great deal of thanks for bringing to my attention the need for involvement by women at every level of the political spectrum. From the State legislature where Jean and I both cut our political teeth, to this very body I stand before today. Diversity of opinion is the lifeblood that feeds democracy and I am grateful that people like Jean Ford helped break down the walls that once kept all but a privileged few out of the political realm.

For her work in opening these doors, Jean has been honored dozens of times by groups throughout Nevada, including being named '' Outstanding Woman of the year'' by the Nevada Women's Political Caucus, and ''Civil Libertarian of the year'' by the ACLU. Jean's legacy also encompasses several political organizations which she helped cofound including the National Women's Legislator's Network, and the Nevada Elected Women's Network.

More recently, Jean has dedicated herself to helping future Nevadans through her work in the classroom. Since 1991, Jean has been an instructor at the University of Nevada—Reno, where she served as acting director of the Women's Studies Program. She has also been an instructor of History and Political Science, and helped developed the Nevada Women's archives through the University library system. It is only fitting that Jean is also the current State coordinator for the Nevada Women's History Project.

But In spite of all that she has endeavored to create, the magnificent achievements of Jean Ford are truly overshadowed by the warmth and graciousness which she has exhibited through the many years that I have known her. I am sure if you could count them, her friends would number in the thousands, and her admirers would number even more. That is the true testament to a life long list of accomplishments.

I ask all my colleagues to join with me today to recognize a true pioneer who changed her world for the better, and whose efforts have touched not only those who call Nevada home, but the hearts and minds of all who have had the pleasure and the honor to know my friend Jean Ford.

JUDICIAL NOMINATIONS DURING THE FIRST SESSION

Mr. LEAHY. Mr. President, as we wrap up our business for the first year of the 105th Congress, I believe it is appropriate to take account of the Senate's advice and consent on judicial nominations. As I have said many times this year in the Judiciary Committee and on the Senate floor, the Senate has failed to fulfill its constitutional responsibilities to the Federal judiciary.

In recent days, the Senate has quickened its painfully slow pace on reviewing and confirming judicial nominations. I have commended the Chairman of the Judiciary Committee for holding two judicial nominations hearings in September and October and for holding another hearing yesterday, which brings the total for the year to nine.

Unfortunately, we had no hearings at all in 4 months—January, February, April or August—and none is anticipated in December. I repeat that we have never had a day go by this session without having a backlog of at least 20 judicial nominations awaiting a hearing. Even with the virtual frenzy of last-minute hearings, we will close the year with more than 30 nominees having never been accorded a confirmation hearing.

I acknowledge that the majority leader has allowed the Senate to proceed to confirm 13 judicial nominees in the last week, but that still leaves eight outstanding nominees on the Senate Calendar still to be considered.

I understand that Senator BOXER has received a commitment from the Republican leadership to proceed to consideration of the longstanding nomination of Margaret Morrow by the middle of February next year. I commend the Senator from California for achieving what appeared to be impossible, getting the Senate to debate this outstanding nominee. I deeply regret that we have not proceeded to debate and vote to confirm Margaret Morrow to the District Court for the Central District of California this year. Hers is the nomination that has been stalled before the Senate the longest, since June 12.

She has twice been reported to the Senate favorably by the Judiciary Committee. She has been unfairly maligned and her family and law partners made to suffer for far too long without cause or justification. Some have chosen to use her nomination as a vehicle for partisan political, narrow ideological, and conservative fund raising purposes. She deserved better treatment. The people of California deserved to have this nominee confirmed and in place hearing cases long ago. The wait can never be rectified or justified.

I hope that the Republican leadership will not require any of the other nominees currently pending on the calendar to remain hostage to their inaction. Ann Aiken was finally reported favorably by the Judiciary Committee earlier this month. Her nomination was first received in November 1995, 2 years ago. She had an earlier hearing in September 1996 and another last month. This is a judicial emergency vacancy that should be filled without further delay.

G. Patrick Murphy would be a much-needed addition to the District Court for the Southern District of Illinois. He

was reported unanimously by the Judiciary Committee and his confirmation should be expedited.

Michael P. McCuskey was likewise reported without a single objection by the Judiciary Committee for a vacancy that is a judicial emergency that ought to be filled without delay.

Frederica Massiah-Jackson is a Pennsylvania State court judge. The Senate should move to consider her nomination without the months of delay that will ensue following adjournment.

As we enter the final hours of this session, the Senate has confirmed 36 of the President's 77 judicial nominations. That is certainly better than the 17 confirmed last year. It is better than the total of only 9 who had been confirmed before September this year. But in a time period in which we have experienced 121 vacancies on the Federal courts, the Senate has proceeded to confirm judges at an annual rate of only three per month. And that does not begin to consider the natural attrition that will lead to more vacancies over the next several months.

I want to thank the President of the United States for helping. Not only has the President sent us almost 80 nominees this year but he devoted a national radio address to reminding the Senate of its constitutional responsibility to consider and confirm qualified nominees to the Federal bench. When he spoke, the American people, and maybe even the Senate, listened. Since word that he would be speaking out on this issue reached Capitol Hill, the pace has picked up a bit.

Unfortunately, the final report on this session of Congress is that the Senate did not make progress on the judicial vacancy crisis. In fact, there are many more vacancies in the Federal judiciary today than when the Senate adjourned last year. At the snail's pace that the Senate has proceeded with judicial nominations this year, we are not even keeping up with attrition. When Congress adjourned last year, there were 64 vacancies on the Federal bench. In the last 11 months, another 57 vacancies have occurred. Thus, after the confirmation of 36 judges in 11 months, there has been a net increase of 16 vacancies, an increase of more than one-third in the number of current Federal judicial vacancies.

Judicial vacancies have been increasing, not decreasing, over the course of this year and therein lies the vacancy crisis, which the Chief Justice of the United States Supreme Court has called the rising number of vacancies ''the most immediate problem we face in the Federal judiciary.''

The Senate still has pending before it 11 nominees who were first nominated during the last Congress, including five who have been pending since 1995. While I am delighted that we are moving more promptly with respect to some of this year's nominees, I remain concerned about the other vacancies and other nominees.

There remains no excuse for the Senate's delay in considering the nominations of such outstanding individuals as Professor William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, M. Margaret McKeown, Susan Oki Mollway, Margaret M. Morrow, Clarence J. Sundram, Ann L. Aiken, Annabelle Rodriguez, Michael D. Schattman and Hilda G. Tagle, all of whom have been pending since the last Congress. All of these nominees have been waiting at least 18 months and some more than 2 years for Senate action.

Most of these outstanding nominees have been waiting all year for a hearing. Professor Fletcher and Ms. Mollway had both been favorably reported last year. Judge Paez had a hearing last year but has been passed over so far this year. Judge Paez, Professor Fletcher, and Ms. McKeown are all nominees for judicial emergency vacancies on the Ninth Circuit, as well.

Next year, I hope that the Committee will proceed without delay to consider these nominations, as well as the nominations of Clarence Sundram and Judge Sonia Sotomayor, who have participated in hearings but are still bottled up in the Judiciary Committee.

We should be moving promptly to fill the vacancies plaguing the Federal courts. Thirty-five confirmations in a year in which we have witnessed 121 vacancies is not fulfilling the Senate's constitutional responsibility.

At the end of Senator HATCH's first year chairing the Committee, 1995, the Senate adjourned having confirmed 58 judicial nominations. In the last year of the Bush Presidency, a Democratic majority in the Senate proceeded to confirm 66 judges.

Unfortunately, this year there has been a concerted campaign of intimidation that threatens the very independence and integrity of our judiciary. We are witnessing an ideological and political attack on the judiciary by some, both outside and within Congress. Earlier this fall the Republican Majority Whip in the House and the Majority Leader in the Senate talked openly about seeking to ''intimidate'' the Federal judiciary. It is one thing to criticize the reasoning of an opinion, the result in a case, or to introduce legislation to change the law. It is quite another matter to undercut the separation of powers and the independence that the Founders created to insulate the judiciary from politics. Independent judicial review has been an important check on the political branches of our Federal Government that have served us so well for over 200 years.

I want to commend all those who have spoken out against this extremist and destructive rhetoric.

I also thank my Democratic colleagues for their patience this year. No Democrat has delayed or placed a ''hold'' on a single judicial nominee for a single day, all year. It is the normal course in the Senate when one Senator sees the recommendations of other Senators of the other party moving through to confirmation while his or her nominees are being held back, to place such a hold. This year we resisted.

I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and to work with us to have the Judiciary Committee and the Senate fulfil its constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges. The mounting backlogs of civil and criminal cases in the dozens of emergency districts, in particular, are growing more critical by the day.

I hope that when we return in January, there will be a realization by those in this body who have started down this destructive path of attacking the judiciary and stalling the confirmation of qualified nominees to the Federal bench that those efforts do not serve the national interest or the American people. I hope that we can once again remove these important matters from partisan and ideological politics.

PRESIDENT'S LINE ITEM VETO OF THE OPEN SEASON FOR CIVIL SERVICE RETIREMENT SYSTEM EMPLOYEES IN THE TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1998

Mr. STEVENS. Mr. President, last year the Congress enacted, and the President signed into law, the Line Item Veto Act—Public Law 104–130. This act delegated specific authority to the President to cancel in whole any dollar amount of discretionary budget authority identified by Congress, new direct spending, and limited tax benefits. As the chairman of the Governmental Affairs Committee at that time, I was chairman of the conference committee and one of the principal authors of the act. Another principal author was the Senator from New Mexico, my good friend and chairman of the Senate Budget Committee. We are here on the floor today to say that the President exceeded the authority delegated to him when he attempted to use the Line Item Veto Act to cancel section 642 of the Treasury and General Government Appropriations Act of 1998, which is Public Law 105–61.

Section 642 of that law would allow a six month open season for employees currently under the Civil Service Retirement System (CSRS) to switch to the Federal Employee Retirement System (FERS). The last such open season was in 1988.

On October 16 President Clinton sent a special message to Congress in which he claims to have canceled section 642 pursuant to the authority delegated to him by Congress in the Line Item Veto Act. Under the Act the President is permitted to cancel in whole any dollar

amount of discretionary budget authority, any item of new direct spending, or any limited tax benefit if the President determines that such cancellation will reduce the Federal budget deficit, not impair any essential government function, and not harm the national interest. A cancellation must be made and Congress must be notified by special message within five calendar days of the date of enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

The President's special message number 97–56 on the Treasury and General Government Appropriations Act of 1998 states that the President is canceling $854 million in discretionary budget authority provided by section 642. The President arrives at this figure by estimating the dollar amount that employee contributions to the CSRS would be reduced as a result of Federal employees shifting to FERS. Unfortunately for the President, these contributions do not represent a ''dollar amount of discretionary budget authority'' as defined by the Line Item Veto Act. Therefore those funds could not be canceled pursuant to that Act.

Mr. DOMENICI. I agree with my colleague from Alaska. Congress added the Line Item Veto Act as Part C of title X of the Congressional Budget and Impoundment Control Act of 1974, which is more commonly referred to as the Budget Act. This was done deliberately, so that the cancellation authority provided by the Line Item Veto Act is part of a larger, established system of budgetary tools that Congress imposes on itself or has delegated to the President to control federal spending.

The Line Item Veto Act provides a detailed definition of what represents a ''dollar amount of discretionary budget authority.'' The definition specifically allows the President to cancel the ''entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included,'' which appears to be the definition which the President used to justify the cancellation of section 642. However, in doing so it appears that the President's advisors failed to realize that section 642 does not constitute ''budget authority'' as defined in section 3 of the Budget Act. That definition also applies to Part C of title X of the Budget Act, which as I mentioned is the Line Item Veto Act.

''Budget authority'' is defined in the Budget Act as ''provisions of law that make funds available for obligation and expenditure * * * borrowing authority * * * contract authority * * * and offsetting receipts and collections * * *.'' Section 642 does not make any funds specifically available, so it does not meet that definition of budget authority. Nor does it provide authority to borrow money or the authority to obligate funds for future expenditure. This means that in order to qualify as budget authority, the $854 million reduction in CSRS employee contributions the President purported to cancel using the Line Item Veto Act would have to be offsetting receipts.

Unfortunately for the President, his advisors seem to have overlooked that employee contributions to retirement accounts are considered governmental receipts, and not offsetting receipts, so they do not meet the definition of budget authority.

Mr. STEVENS. The senator from New Mexico is making my point exactly. The President's advisors cannot change the definition of budget authority to permit him to reach this provision. As a senior member of the Appropriations Committee I was particularly concerned with the precise nature of the authority delegated to the President, and worked very hard along with my staff to ensure that the definitions were clear and unambiguous. That is the reason for the detailed definition in section 1026 of the Budget Act, as added by the Line Item Veto Act, which incorporates the long established definition of budget authority in section 3 of the Budget Act. Is it the Senator from New Mexico's understanding that prior to the attempted cancellation of section 642 that the President's own documents classified employee contributions to retirement accounts as governmental receipts that are counted as revenue and not offsetting receipts that offset budget authority and outlays?

Mr. DOMENICI. The Senator from Alaska is correct. In the President's Budget for Fiscal Year 1998 there is a proposal to increase employee contributions to both CSRS and FERS. This proposal is shown on page 317 of the Budget, in Table S–7 that shows the impact of tax relief provisions and other revenue measures, as an increase in governmental receipts. This same proposal is listed under ''miscellaneous receipts'' in Table 3–4 showing Federal receipts by source on page 59 of the Analytical Perspectives document that accompanied the FY 98 Budget. The fact that section 642 would have resulted in a reduction in employee contributions to CSRS does not alter their treatment under the Budget Act; they are still governmental receipts collected from employees through the government's sovereign powers and not offsetting receipts collected as a result of a business-like or market oriented activity.

Mr. STEVENS. I thank the Senator from New Mexico for that explanation. In closing, I would like to take this opportunity to clarify further how the Line Item Veto Act operates. Section 1021(a)(3)(B) of the Budget Act—the section of the Line Item Veto Act that provides the cancellation authority—makes it clear that the authority is limited to the cancellation of a dollar amount of discretionary budget authority that is provided in the just-signed law before the President. Under the specific terms and definitions provided in the Line Item Veto Act, the President cannot reach a dollar amount of discretionary budget authority provided in some other law that is not the one before the President. The Treasury and General Government Appropriations Act did not provide $854 million in discretionary budget authority for section 642, so that amount could not be rescinded under the terms of the Line Item Veto Act. The $854 million figure came from the President's estimates of the loss of employee contributions to CSRS government-wide. As we have explained above that loss is not budget authority, so it cannot be canceled. But even if it were, the President could not reach dollar amounts of discretionary budget authority government-wide unless the dollar amount of budget authority needed government-wide was provided in the specific appropriations law before him.

As the definition of cancel in section 1026 of the Budget Act clearly states, in the case of a dollar amount of discretionary budget authority the term ''cancel'' means ''rescind''—a term which itself has a long history in congressional-executive branch relations. The recission of budget authority in a specific law does not change the operative effect of a general provision in that specific law with respect to budget authority provided in another law. As the statement of managers accompanying the Line Item Veto Act makes clear, the delegated authority in the Act does not permit the President to strike out or rewrite the law. It merely allows him discretionary authority to close the doors to the Federal Treasury and refuse to spend funds appropriated by Congress in that particular law.

In contrast, the definition of ''cancel'' with respect to new direct spending, which also results in the expenditure of budget authority, is to prevent the specific provision of law or legal obligation from ''having legal force or effect.'' This distinction recognizes that provisions of law that result in new direct spending may not actually provide budget authority that can be canceled at that time—say for example a provision of law that simply increases the amount an individual will receive at a future date under an existing benefit program provided in a law enacted years before. Such provisions create a legal obligation or right that may be exercised in the future, or which result in a future increase in expenditures from budget authority provided elsewhere. If the President wishes to remove the legal force or effect of a specific provision of law that applies to budget authority provided in a law other than the appropriations law the provision is in, then he may only do so if that provision is new direct spending under the Line Item Veto Act.

Section 642 is not an ''item of new direct spending'' as defined in section 1026 of the Budget Act because it results in savings to the government

when compared to the present budget baseline. As explained above, the President's wish to the contrary notwithstanding, it does not result in a dollar amount of discretionary budget authority. Thus, the President has exceeded his delegated authority by violating the terms of the statute, and I would urge the Justice Department to concede that the cancellation of section 642 was outside the authority provided by the statute.

Mr. DOMENICI. I concur in the Senator's analysis and recommendation. The Line Item Veto Act is a carefully crafted delegation of authority. The President undermines that delegation when he attempts to reach outside the clear limits of that Act.

Mr. STEVENS. I thank the Senator from New Mexico for joining me in this colloquy, and I yield the floor.

STATUS OF OCEAN SHIPPING REFORM AND OECD SHIPBUILDING AGREEMENT LEGISLATION

Mr. LOTT. Mr. President, I rise today to address the status of the Ocean Shipping bill and the implementation of the OECD Shipbuilding Agreement in the Senate. These are very important bills which are badly needed to reform America's maritime industry.

A number of my Senate colleagues joined me in working very hard this year, in a bipartisan way, to get these two bills done. The legislation and amendments reflected a balance among the concerns of all affected parties. However, I must report that a few Senators have held up each bill. This minority of Senators wants more than most of us believe is do-able. Given the waning hours of this session, the Senate will not be able to consider and pass either of these bills this year. I am deeply disappointed.

Mr. President, maritime issues are very important to me. I grew up in the port town of Pascagoula. I still live there. My father worked in the shipyard. I have spent my entire adult life working on maritime issues. So I am very concerned by the Senate's inaction on these two pieces of legislation.

The Ocean Shipping Act is D.I.W.—''dead in the water'', at least for this year. The incremental Shipping Act reforms have been stopped because some want to inject new issues into the legislation. Issues that should be resolved at the labor-management negotiating table. Issues not directly related to making America's container ships more competitive in the international marketplace.

Mr. President, the bill's sponsors have made it clear on several occasions that we are not trying to undo or inject the Senate into the collective-bargaining process for port labor agreements. These concerns can and should be addressed in a fair and even-handed manner at the bargaining table.

Despite my efforts to work through this issue this past weekend, some Senators on the other side of the aisle have chosen to stop the Ocean Shipping Reform bill.

Mr. President, the Ocean Shipping Reform bill is necessary.

Mr. President, the Ocean Shipping Reform bill helps U.S. exporters in every State of this nation compete with their foreign competitors.

Without Ocean Shipping Reform, the Senate keeps 50 states D.I.W. for a small organized group.

Mr. President, the Ocean Shipping Reform bill helps America's container ships and exporters.

When we take up this bill early next year, each Senator will be asked to choose between helping the thousands of workers in his or her State or harming them.

Mr. President, the second piece of important maritime legislation I would like to see passed is the implementation of the OECD Shipbuilding Agreement, signed nearly 3 years ago. This legislation, I am disappointed to report, is also D.I.W.

Senators on two committees worked very hard this session, in a bipartisan manner, to address the legitimate concerns of our nation's largest shipyards. U.S. participation in this agreement is essential, but it must be based on the firm understanding that the Jones Act and national security requirements regarding vessel construction will not be restricted by other countries. What America desires is a level playing field, without compromising our national security interests.

I believe that S. 1216, with the Lott-Breaux amendment, addresses these principles in a good faith effort to resolve the issues identified by Representative BATEMAN. I would not support any legislation that didn't respect these principles.

Let me be clear. I am a Jones Act supporter, period. And I believe the amendment protects the integrity of the Jones Act.

But once again, a few Senators have stopped this vital legislation in mid-ocean. Another D.I.W. bill.

This minority of Senators wants to include additional exceptions to the OECD Agreement's limitations on commercial vessel construction subsidies and credits. I am concerned that this attempt will scuttle the entire Agreement. This is counter-productive. This would force U.S. shipbuilders back into a subsidy race that the U.S. cannot afford to win. This small minority of Senators are not just stopping this legislation in mid-ocean, but scuttling it—sinking it. And I believe that, no matter how well-meaning they may be, they will eventually jeopardize the very U.S. commercial shipbuilding industry they are trying to protect. Our commercial shipbuilding industry needs a worldwide, level playing field. We need it now.

Mr. President, it is time for these few Senators to set aside narrow regional and partisan interests and take up an oar and start rowing with the rest of the Senate. The Senate needs to get the Ocean Shipping and OECD bills moving. I intend to put these bills to a Senate vote early next year.

In the meantime, the Senate has left two vital pieces of maritime legislation stranded in the middle of the ocean, for a long winter. D.I.W. Dead in the water. This is not good for America's maritime world. This is not good for America.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on November 13, 1997, during the adjournment of the Senate, received a message from the House of Representatives announcing that House had passed the following bills, each without amendment:

S. 1378. An act to extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes.

S. 1507. An act to amend the National Defense Authorization Act for Fiscal Year 1998 to make certain technical corrections.

S. 1519. An act to provide a 6-month extension of highway, highway safety, and transit programs pending enactment of a law reauthorizing the Intermodal Surface Transportation Efficiency Act of 1991.

The message also announced that the House has agreed to the following concurrent resolutions, each without amendment.

S. Con. Res. 61. Concurrent resolution authorizing printing of a revised edition of the publication entitled ''Our Flag.''

S. Con. Res. 62. Concurrent resolution authorizing of the brochure entitled ''How Our Laws Are Made.''

S. Con. Res. 63. Concurrent resolution authorizing printing of the pamphlet entitled ''The Constitution of the United States of America.''

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. An act to make technical corrections to title 11, United States Code, and for other purposes.

H.R. 2440. An act to make technical amendments to section 10 of title 9, United States Code.

H.R. 2709. An act to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention.

H.R. 2979. An act to authorize acquisition of certain real property for the Library of Congress, and for other purposes.

H.J. Res. 95. Joint resolution granting the consent of Congress to the Chickasaw Trail Economic Development Compact.

H.J. Res. 96. Joint resolution granting the consent and approval of Congress for the States of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Transit Regulation Compact.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate.

S. 1079. An act to permit the mineral leasing of Indian land located within the Fort

Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2159) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 699. An act to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site.

S. 714. An act to amend title 38, United States Code, to revise, extend, and improve programs for veterans.

S. 923. An act to amend title 38, United States Code, to prohibit interment or memorialization in certain cemeteries of persons committing Federal or State capital crimes.

S. 1231. An act to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes.

S. 1258. An act to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act.

S. 1347. An act to permit the city of Cleveland, Ohio, to convey certain lands that the United States conveyed to the city.

H.R. 1086. An act to codify without substantive change laws related to transportation and to improve the United States Code.

H.R. 1090. An act to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakeable error.

H.R. 1840. An act to provide a law enforcement exception to the prohibition on the advertising of certain electronic devices.

H.R. 2366. An act to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes.

H.R. 2813. An act to waive time limitations specified by law in order to allow the Medal of Honor to be awarded to Robert R. Ingram of Jacksonville, Florida, for acts of valor while a Navy Hospital Corpsman in the Republic of Vietnam during the Vietnam conflict.

H.J. Res. 91. Joint resolution granting the consent of Congress to the Apalachicola-Chattahooche-Flint River Basin Compact.

H.J. Res. 92. Joint resolution granting the consent of Congress to the Alabama-Coosa-Tallapoosa River Basin Compact.

The enrolled bills and joint resolution were signed subseqently by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

At 12:56 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate of the bill (H.R. 867) to promote the adoption of children in foster care, with an amendment, in which it requests the concurrence of the Senate.

At 3:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bills, each without amendment:

S. 1228. An act to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes.

S. 1354. An act to amend the Communications Act of 1934 to provide for the designation of common carriers not subject to the jurisdiction of a State commission as eligible telecommunications carriers.

S. 1417. An act to provide for the design, construction, furnishing and equipping of a Center for Performing Arts within the complex known as the New Mexico Hispanic Cultural Center and for other purposes.

S. 1505. An act to make technical and conforming amendments to the Museum and Library Services Act, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3025. An act to amend the Federal charter for Group Hospitalization and Medical Services, Inc., and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 1658) to reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 731. An act to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate numbered 1–60, 62, and 63 to the bill (H.R. 1604) to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18–E, 364, and 18–R before the Indian Claims Commission; and that the House disagrees to the amendment of the Senate numbered 61 to the said bill.

At 3:54 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 103. Concurrent resolution concerning the situation in Kenya.

H. Con. Res. 172. Concurrent resolution expressing the sense of Congress in support of efforts to foster friendship and cooperation between the United States and Mongolia, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 476. An act to provide for the establishment of not less than 2,500 Boys and Girls Clubs of America facilities by the year 2000.

At 6:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 196. Concurrent resolution to correct the enrollment of the bill S. 830.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2796. An act to authorize the reimbursement of members of the Army deployed to Europe in support of operations in Bosnia for certain out-of-pocket expenses incurred by the members during the period beginning on October 1, 1996, and ending on May 31, 1997.

H.R. 3034. An act to amend section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, relating to customs user fees, to allow the use of such fees to provide for customs inspectional personnel in connection with the arrival of passengers in Florida, and for other purposes.

H.R. 3037. An act to clarify that unmarried children of Vietnamese reeducation camp internees are eligible for refugee status under the Orderly Departure Program.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 738. An act to reform the status relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 562) to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage, with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bill, previously received from the House of Representatives for the concurrence of the Senate, was read the first and second times by unanimous consent and referred as indicated:

H.R. 112. An act to provide for the conveyance of certain property from the United States to Stanislaus County, California; to the Committee on Commerce, Science, and Transportation.

H.R. 404. An act to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to State and local governments of certain surplus property needed for use for a law enforcement or fire and rescue purpose; to the Committee on Governmental Affairs.

H.R. 434. An act to provide for the conveyance of small parcels of land in the Carson National Forest and the Santa Fe National Forest, New Mexico, to the village of El Rito and the town of Jemez Springs, New Mexico; to the Committee on Energy and Natural Resources.

H.R. 764. An act to make technical corrections to title 11, United States Code, and for other purposes; to the Committee on the Judiciary.

H.R. 849. An act to prohibit an alien who is not lawfully present in the United States from receiving assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; to the Committee on Environment and Public Works.

H.R. 1129. An act to establish a program to provide assistance for programs of credit and other assistance for microenterprises in developing countries, and other purposes; to the Committee on Foreign Relations.

H.R. 1502. An act to designate the United States Courthouse located at 301 West Main Street in Benton, Illinois, as the ''James L. Foreman United States Courthouse''; to the Committee on Governmental Affairs.

H.R. 1534. An act to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, security by the United States Constitution, have been deprived by final actions for Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution; to the Committee on the Judiciary.

H.R. 1805. An act to amend the Auburn Indian Restoration Act to establish restrictions related to gaming on and use of land held in trust for the United Auburn Indian Community of the Auburn Rancheria of California, and for other purposes; to the Committee on Indian Affairs.

H.R. 1839. An act to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicle; to the Committee on Commerce, Science, and Transportation.

H.R. 2232. An act to provide for increased international broadcasting activities to China; to the Committee on Foreign Relations.

H.R. 2402. An act to make technical and clarifying amendments to improve the management of water-related facilities in the Western United States; to the Committee on Energy and Natural Resources.

H.R. 2440. An act to make technical amendments to section 10 of title 9, United States Code; to the Committee on the Judiciary.

H.R. 2464. An act to amend the Immigration and Nationality Act to exempt internationally adopted children 10 years of age or younger from the immunization requirement in section 212(a)(1)(A)(ii) of such Act; to the Committee on the Judiciary.

H.R. 2534. An act to reform, extend, and repeal certain agricultural research, extension, and education programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3037. An act to clarify that unmarried children of Vietnamese reeducation camp internees are eligible for refugee status under the Orderly Departure Program; to the Committee on Foreign Relations.

H.R. 2535. An act to amend the Higher Education Act of 1965 to allow the consolidation of student loans under the Federal Family Loan Program and Direct Loan Progam; to the Committee on Labor and Human Resources.

H.R. 2616. An act to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools; to the Committee on Labor and Human Resources.

H.R. 2920. An act to amend the Illegal Immigration Reform and Immigration Responsibility Act of 1996 to modify the requirements for implementation of an entry-exit control system; to the Committee on the Judiciary.

The following measures were read and referred as indicated:

H. Con. Res. 130. Concurrent Resolution concerning the situation in Kenya; to the Committee on Foreign Relations.

H. Con. Res. 139. Concurrent Resolution expressing the sense of Congress that the United States Government should fully participate in EXPO 2000 in the year 2000, in Hannover, Germany, and should encourage the academic community and the private sector in the United States to support this worthwhile undertaking; to the Committee on Foreign Relations.

H. Con. Res. 172. Concurrent Resolution expressing the sense of Congress in support of efforts to foster friendship and cooperation between the United States and Mongolia, and for other purposes; to the Committee on Foreign Relations.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 2709. An act to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention.

ENROLLED BILLS PRESENTED

The Secretary of the State reported that on November 13, 1997 he had presented to the President of the United States, the following enrolled bills:

S. 699. An act to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site.

S. 714. An act to amend title 38, United States Code, to revise, extend, and improve programs for veterans.

S. 923. An act to amend title 38, United States Code, to prohibit interment or memorialization in certain cemeteries of persons committing Federal or State capital crimes.

S. 1231. An act to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes.

S. 1258. An act to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act.

S. 1347. An act to permit the city of Cleveland, Ohio, to convey certain lands that the United States conveyed to the city.

REPORTS OF COMMITTEE

The following reports of committee 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. 105–155).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 569: A bill to amend the Indian child Welfare Act of 1978, and for other purposes (Rept. No. 105–156).

By Mr. SPECTER, from the Committee on Veterans Affairs, without amendment:

S. 464: A bill to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error (Rept. No. 105–157).

S. 999: A bill to specify the frequency of screening mammograms provided to women veterans by the Department of Veterans Affairs (Rept. No. 105–158).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1172: A bill for the relief of Sylvester Flis.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

William J. Lynn, III, of the District of Columbia, to be Under Secretary of Defense (Comptroller).

(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.)

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Henry G. Ulrich, III, 2552

(The above nomination was reported with the recommendation that he be confirmed.)

By Mr. HATCH, from the Committee on the Judiciary:

Barry G. Silverman, of Arizona, to be United States Circuit Judge for the Ninth Circuit.

Carlos R. Moreno, of California, to be United States District Judge for the Central District of California.

Richard W. Story, of Georgia, to be United States District Judge for the Northern District of Georgia.

Christine O.C. Miller, of the District of Columbia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years. (Reappointment)

Robert S. Warshaw, of New York, to be Associate Director for National Drug Control Policy.

(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. BURNS:

S. 1526. A bill to authorize an exchange of land between the Secretary of Agriculture and Secretary of the Interior and the Big

Sky Lumber Company; to the Committee on Energy and Natural Resources.

By Mr. REID:

S. 1527. A bill to encourage and to assist in the permanent settlement of all litigation and other claims to the waters of the Walker River Basin and to conserve and stabilize the water quantity and quality for fish habitat and recreation in the Walker River Basin, consistent with the Walker River Decree issued by the United States District Court for the District of Nevada; to the Committee on Energy and Natural Resources.

By Mr. ROBB:

S. 1528. A bill to amend chapters 83 and 84 of title 5, United States Code, to provide for the equitable waiver of certain limitations on the election of survivor reductions of Federal annuities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. WYDEN, Mrs. FEINSTEIN, and Mr. TORRICELLI):

S. 1529. A bill to enhance Federal enforcement of hate crimes, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1530. A bill to resolve ongoing tobacco litigation, to reform the civil justice system responsible for adjudicating tort claims against companies that manufacture tobacco products, and establish a national tobacco policy for the United States that will decrease youth tobacco use and reduce the marketing of tobacco products to young Americans; read the first time.

By Ms. SNOWE:

S. 1531. A bill to deauthorize certain portions of the project for navigation, Bass Harbor, Maine; to the Committee on Environment and Public Works.

S. 1532. A bill to amend the Water Resources Development Act of 1996 to deauthorize the remainder of the project at East Boothbay Harbor, Maine; to the Committee on Environment and Public Works.

By Mr. BREAUX (for himself and Mr. COCHRAN):

S. 1533. A bill to amend the Migratory Bird Treaty Act to clarify restrictions under that Act of baiting, and for other purposes; to the Committee on Environment and Public Works.

By Mr. TORRICELLI:

S. 1534. A bill to amend the Higher Education Act of 1965 to delay the commencement of the student loan repayment period for certain students called to active duty in the Armed Forces; to the Committee on Labor and Human Resources.

By Mr. SANTORUM (for himself, Mr. LAUTENBERG, Mr. DEWINE, Mr. CHAFEE, Mr. COATS, Mr. GREGG, Mr. FEINGOLD, and Mr. SPECTER):

S. 1535. A bill to provide marketing quotas and a market transition program for the 1997 through 2001 crops of quota and additional peanuts, to terminate marketing quotas for the 2002 and subsequent crops of peanuts, and to make nonrecourse loans available to peanut producers for the 2002 and subsequent crops of peanuts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TORRICELLI (for himself and Ms. SNOWE):

S. 1536. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis and to help women make informed choices about their reproductive and post-menopausal health care, and to otherwise provide for research and information concerning osteoporosis and other related bone diseases; to the Committee on Labor and Human Resources.

By Mr. CHAFEE:

S. 1537. A bill to suspend until December 31, 2002, the duty on Benzoic acid, 2-{{1-{{(2,3-dihydro-2-oxo-1H-benzimidozal-5-yl) amino}; to the Committee on Finance.

By Mr. SANTORUM:

S. 1538. A bill to amend the Honey Research, Promotion, and Consumer Information Act to improve the honey research, promotion, and consumer information program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CHAFEE:

S. 1539. A bill to suspend until December 31, 2002, the duty on N-{4-(Aminocarbonyl)phenyl}4-{{(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)amino) carbonyl}-2-oxopropyl}azo}benzamide; to the Committee on Finance.

S. 1540. A bill to suspend until December 21, 2002, the duty on Butanamide, N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-2-{{-(trifluoro-methyl)phenyl}azo}-; to the Committee on Finance.

S. 1541. A bill to suspend until December 31, 2002, the duty on 1,4 - Benzenedicarboxylic acid, 2 - {{1 - {{(2,3-dihydro - 2-oxo-1H-benzimidazol-5 - yl)amino carbonyl}-2-oxopropyl}azo}-,dimethyl ester; to the Committee on Finance.

S. 1542. A bill to suspend until December 31, 2002, the duty on Butanamide, 2,2′-{1-2,-ethanediylbis(oxy - 2,1-phenyleneazo) }bis{N-(2,3 - dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-; to the Committee on Finance.

S. 1543. A bill to suspend until December 31, 2002, the duty on Benzenesulfonic acid, 4-chloro-2-{{5-hydroxy-3-methyl-1-(3 - sulfophenyl) - 1H-pyrazol-4-yl}az0}-5-methyl-.calcium salt (1:1); to the Committee on Finance.

S. 1544. A bill to suspend until December 31, 2002, the duty on 4 - {{5- {{{4-(Aminocarbonyl)phenyl} amino}carbonyl} -2-methoxyphenyl}azo} - N - (5- chloro-2, 4-dimethozyphenyl) - 3-hydroxynaphthalene-2-carboxamide; to the Committee on Finance.

S. 1545. A bill to suspend until December 31, 2002, the duty on Benzenesulfonic acid,4 - {{3-{{2-hydroxy - 3 - {{4 - methoxyphenyl)amino}carbonyl} - 1 - naphtha-lenyl}azo}-4- methylbenzoyl}amino} -, calcium salt (2:1); to the Committee on Finance.

S. 1546. A bill to suspend until December 31, 2002, the duty on Butanamide, 2,2′ - {3,3′-dichloro{1,1′ - biphenyl}-4,4′ - diyl)bis(azo)}bis{N - (2,3-dihydro - 2-oxo-1H-benzimidazol-5yl)-3-oxo; to the Committee on Finance.

S. 1547. A bill to suspend until December 31, 2002, the duty on Butanamide, N,N′-(3,3′dimethyl{1,1′-byphenyl}-4,4′-diyl)bis{2,4-dichlorophenyl) azo}-3-oxo-; to the Committee on Finance.

S. 1548. A bill to suspend until December 31, 2002, the duty on N-(2,3- Dihydro-2-oxo-1H-benzimidazol-5-yl)-5-methyl-4-{(methylamino) sulphonyl} phenyl}azo}naphthalene-2-carboxaminde; to the Committee on Finance.

S. 1549. A bill to suspend until December 31, 2002, the duty on Benzoic acid, 2-{{3-{{(2,3-dihydro-2-oxo-1H-1H-benzimidazol-5-yl) amino}carbonyl}-2-hydroxyl-1-naphthalenyl}azo}-, butyl ester; to the Committee on Finance.

S. 1550. A bill to suspend until December 31, 2002, the duty on Benzoic acid, 4-{{(2,5-dichlorophenyl)amino}carbonyl}-2-{{2-hydroxy - 3-{{(2 - methoxyphenyl) amino}carbonyl}-1-naphthalenyl}-,methyl ester; to the Committee on Finance.

By Mr. TORRICELLI:

S. 1551. A bill for the relief of Kerantha Poole-Christian; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 1552. A bill to provide for the conveyance of an unused Air Force housing facility in La Junta, Colorado, to the City of La Junta; to the Committee on Armed Services.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1553. A bill to amend the Marine Protection, Research, and Santuaries Act of 1972 with respect to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself and Mr. LIEBERMAN):

S. 1554. A bill to provide for relief from excessive punitive damage awards in cases involving primarily financial loss by establishing rules for proportionality between the amount of punitive damages and the amount of economic loss; to the Committee on the Judiciary.

By Mr. FAIRCLOTH:

S. 1555. A bill to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 1556. A bill to improve child nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TORRICELLI (for himself, Mr. AKAKA, Mr. KERRY, and Mrs. FEINSTEIN):

S. 1557. A bill to end the use of steel jaw leghold traps on animals in the United States; to the Committee on Environment and Public Works.

By Mr. D'AMATO:

S. 1558. A bill to amend the Harmonized Tariff Schedule of the United States with respect to shadow mask steel; to the Committee on Finance.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 1559. A bill to provide for the design, construction, furnishing, and equipping of a Center for Historically Black Heritage within Florida A&M University; considered and passed.

By Mr. FAIRCLOTH:

S. 1560. A bill to require the Federal banking agencies to make certain certifications to Congress regarding new accounting standards for derivatives before they become effective; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER:

S. 1561. A bill to reform the conduct of Federal elections; to the Committee on Rules and Administration.

By Mr. BAUCUS:

S. 1562. A bill to authorize an exchange of land between the Secretary of Agriculture and Secretary of the Interior and Big Sky Lumber Co; to the Committee on Energy and Natural Resources.

By Mr. SMITH of Oregon (for himself, Mr. CRAIG, Mr. GORTON, Mr. ROBERTS, and Mr. GRAMS):

S. 1563. A bill to amend the Immigration and Nationality Act to establish a 24-month pilot program permitting certain aliens to be admitted into the United States to provide temporary or seasonal agricultural services pursuant to a labor condition attestation; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. 1564. A bill to provide redress for inadequate restitution of assets siezed by the United States Government during World War II which belonged to victims of the Holocaust, and for other purposes; considered and passed.

By Mr. ABRAHAM:

S. 1565. A bill to make technical corrections to the Nicaraguan Adjustment and

Central American Relief Act; considered and passed.

By Mr. THURMOND:

S. 1566. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to protect the voting rights of military personnel, and for other purposes; considered and passed.

By Mr. BREAUX:

S. 1567. A bill to suspend until January 1, 2001, the duty on 2,6- Dimethyl-m-Dioxan-4-ol Acetate; to the Committee on Finance.

By Mr. BIDEN:

S. 1568. A bill to provide for the rescheduling of flunitrazepam into schedule I of the Controlled Substances Act, and for other purposes; to the Committee on the Judiciary.

By Mr. LOTT:

S.J. Res. 39. A joint resolution to provide for the convening of the second session of the One Hundred Fifth Congress; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LOTT:

S. Res. 156. A resolution authorizing the President of the Senate, the President of the Senate pro tempore, and the Majority and Minority Leaders to make certain appointments after the sine die adjournment of the present session; considered and agreed to.

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

S. Res. 157. A resolution tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

S. Res. 158. A resolution tendering the thanks of the Senate to the President pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. LOTT:

S. Res. 159. A resolution to commend the exemplary leadership of the Democratic Leader; considered and agreed to.

By Mr. DASCHLE:

S. Res. 160. A resolution to commend the exemplary leadership of the Majority Leader; considered and agreed to.

By Mr. LOTT:

S. Res. 161. A resolution to amend Senate Resolution 48; considered and agreed to.

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

S. Res. 162. A resolution to authorize testimony and representation of Senate employees in *United States* v. *Blackley;* considered and agreed to.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. WELLSTONE, Mr. LEVIN, Mr. DODD, Mr. TORRICELLI, Mr. REED, Mr. DURBIN, Ms. MIKULSKI, and Mr. KENNEDY):

S. Res. 163. A resolution expressing the sense of the Senate on the 100th anniversary of the birth of Dorothy Day and designating the week of November 8, 1997, through November 14, 1997, as ''National Week of Recognition for Dorothy Day and Those Whom She Served''; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 68. A concurrent resolution to adjourn sine die the first session of the One Hundred Fifth Congress; considered and agreed to.

By Mr. JEFFORDS:

S. Con. Res. 69. A concurrent resolution to correct the enrollment of the bill S. 830; considered and agreed to.

By Mr. D'AMATO:

S. Con. Res. 70. A concurrent resolution to correct a technical error in the enrollment of the bill S. 1026; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS:

S. 1526. A bill to authorize an exchange of land between the Secretary of Agriculture and Secretary of the Interior and the Big Sky Lumber Co.; to the Committee on Energy and Natural Resources.

THE GALLATIN LAND CONSOLIDATION ACT OF 1997

Mr. BURNS. Madam President, I am introducing draft legislation to complete the third phase of the Gallatin Land Consolidation Act. As Congress winds down to the final hours of this session it has become increasingly important to show Montanans that we are committed to completing this act.

In Montana there are many folks who have small problems with the details of the proposed agreement between Big Sky Lumber and the U.S. Forest Service. Also at stake are the exceptional natural resources of the Taylors Fork lands. These lands are privately owned and face an uncertain future. By showing the private landowners that Congress is, in fact, committed to completing this exchange, the environmental value of Taylors Fork will be preserved.

Taylors Fork is a migration corridor for wildlife which leave Yellowstone National Park for winter range in Montana. With legislation I am committed to preserving Taylors Fork as close to a natural state as possible.

I am confident that by working together, the Montana congressional delegation will be able to resolve the outstanding land use issues in the Bridger-Bangtail area. I also believe we can resolve the concerns of the timber small business set-aside.

This bill is a placeholder. There are many details that need to be included. The deadline for ensuring the Taylors Fork lands remain included in the agreement is December 31 of this year. My intent with this bill is to satisfy the deadline to preserve our option on Taylors Fork and to provide a forum for Montanans to begin to comment on the details of the package. I look forward to moving ahead with Senator BAUCUS and Congressman HILL and completing the original act of 1993 in the next session of Congress.

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. WYDEN, Mrs. FEINSTEIN, and Mr. TORRICELLI):

S. 1529. A bill to enhance Federal enforcement of hate crimes, and for other purposes; to the Committee on the Judiciary.

THE HATE CRIMES PREVENTION ACT OF 1998

Mr. KENNEDY. Mr. President, it is a privilege to join Senator SPECTER and Senator WYDEN in introducing the Hate Crimes Prevention Act of 1998. Last Monday, President Clinton convened a historic White House Conference on Hate Crimes. This conference brought together community leaders, law enforcement officials, religious and academic leaders, parents, and victims for a national dialogue on how to reduce hate violence in our society.

I commend President Clinton for his leadership on this important issue. Few crimes tear at the fabric of society more than hate crimes. They injure the immediate victims, but they also injure the entire community—and sometimes the entire nation. So it is entirely appropriate to use the full power of the federal government to punish them.

This bill is the product of careful consultation with the Department of Justice, constitutional scholars, law enforcement officials, and many organizations with a long and distinguished history of involvement in combating hate crimes, including the Anti-Defamation League, the National Organization of Women Legal Defense Fund, the Human Rights Campaign, the National Coalition Against Domestic Violence, and the American Psychological Association. President Clinton strongly supports the bill, and we look forward to working closely with the administration to ensure its passage.

Hate crimes are on the rise throughout America. The Federal Bureau of Investigation documented 8,000 hate crimes in 1995, a 33-percent increase over 1994. The 8,000 documented hate crimes actually understate the true number of hate crimes, because reporting is voluntary and not all law enforcement agencies report such crimes.

The National Asian Pacific American Legal Consortium recently released its 1997 Audit of anti-Asian violence. Their report documented a 17-percent increase in hate crimes against Asian-Americans. The National Gay and Lesbian Task Force documented a 6-percent increase in hate violence against gay, lesbian, and bisexual citizens in 1996. Eighty-two percent of hate crimes based on religion in 1995 were anti-Semitic.

Gender motivated violence occurs at alarming rates. The Leadership Conference on Civil Rights recently issued a report on hate crimes which correctly noted that ''society is beginning to realize that many assaults against women are not 'random' acts of violence but are actually bias-related crimes.''

The rising incidence of hate crimes is simply intolerable. Yet, our current Federal laws are inadequate to deal with this violent bigotry. The Justice Department is forced to fight the battle against hate crimes with one hand tied behind its back.

There are two principal gaps in existing law that prevent federal prosecutors from adequately responding to hate crimes. First, the principal federal hate crimes law, 18 United States Code 245, contains anachronistic and onerous jurisdictional requirements that frequently make it impossible for

federal officials to prosecute flagrant acts of racial or religious violence. Second, federal hate crimes law do not cover gay bashing, gender-motivated violence, or hate crimes against the disabled.

Our bill closes these gaps in existing law, and gives prosecutors the tools they need to fight bigots who seek to divide the nation through violence. Our bill expands the federal government's ability to punish racial violence by removing the unnecessary jurisdictional requirements from existing law. In addition, the bill gives federal prosecutors new authority to prosecute violence against women, against the disabled, and against gays and lesbians.

The bill also provides additional resources to hire the necessary law enforcement personnel to assist in the investigation and prosecution of hate crimes. The bill also provides additional resources for programs specifically targeted at preventing hate crimes.

Finally, the bill addresses the growing problem of adults who recruit juveniles to committee hate crimes. In Montgomery County, Tennessee, a white supremacist founded a hate group known as the ''Aryan Faction,'' and recruited new members by going into local high schools. The group then embarded on a violent spree of firebombings and arsons before being apprehended. Hate crimes disproportionately involve juveniles, and the bill directs the Sentencing Commission to study this problem and determine appropriate additional sentencing enhancements for adults who recruit juveniles to commit hate crimes.

The structure of this bill is modeled after the Church Arson Prevention Act, the bipartisan bill enacted by the Senate unanimously last year in response to the epidemic of church arson crimes. Combating hate crimes has always been a bipartisan issue in the Senate. The Hate Crimes Statistics Act has overwhelming bipartisan support, and it was extended last year by a unanimous vote. The Hate Crimes Sentencing Enhancement Act was enacted in 1994 by a 92–4 vote in the Senate.

The bill we are introducing today is the next step in our bipartisan effort to combat hate violence. This bill is an essential part of the battle against bigotry, and I urge the Senate to give high priority when Congress returns to session in January.

Mr. WYDEN. Mr. President, I am pleased to join my colleagues, Senators KENNEDY and SPECTER, in introducing a bill that will make it clear that this country will no more tolerate violence directed at gays, women, or people with disabilities. This legislation will end the bizarre double standard which says that hate crimes motivated by one sort of prejudice are a Federal crime, while those motivated by other biases are not. It will assure that every American who becomes a victim of a hate crime has equal standing under Federal law, because hatred and violence are always wrong.

This bipartisan bill is based on a common conviction that this country still has work to do in rooting out hatred, prejudice and the violence they generate. Hate crimes—the threat or use of force to injure, intimidate or interfere with another person solely because of the person's race, color, religion or national origin—cannot be tolerated in our society. That point has already been enshrined in law and passage of the Hate Crimes Statistics Reporting Act in 1990, followed by the Hate Crimes Penalty Enhancement Act in 1993 and the 1996 resolution condemning church burnings.

Our bill simply seeks to offer the same protection to victims of gay bashing, woman beating and crimes against people with disabilities that has already been offered to victims of bias crimes based on racial and ethnic discrimination.

Today, the perpetrator who hurls a brick at someone because he is Asian-American can be prosecuted under Federal law. The one who attacks gay men to ''teach them a lesson'' cannot. The perpetrator who burns a black church or defaces a synagogue can be prosecuted under Federal law. The one who targets people in wheelchairs or blind people cannot. This legislation would erase that double standard from the books. Hate crimes are all the same, and they are never acceptable.

I urge my colleagues to join us in moving forward with this important legislation when we return here next year.

By Mr. HATCH:

S. 1530. A bill to resolve ongoing tobacco litigation, to reform the civil justice system responsible for adjudicating tort claims against companies that manufacture tobacco products, and establish a national tobacco policy for the United States that will decrease youth tobacco use and reduce the marketing of tobacco products to young Americans; read the first time.

THE PLACING RESTRAINTS ON TOBACCO'S ENDANGERMENT OF CHILDREN AND TEENS ACT

Mr. HATCH. Mr. President, perhaps the most important legacy this Congress can leave for future generations is implementation of a strong plan to curb tobacco use, and especially its use by children and teens.

Quite simply, something needs to be done to get tobacco out of the hands of children—or perhaps more accurately, out of the lungs and mouths of children.

TEENS AND TOBACCO USE

The numbers of children who smoke cigarettes and use other tobacco products such as snuff and chewing tobacco are truly alarming. And these numbers are on the rise.

According to the Centers for Disease Control and Prevention, most youths who take up tobacco products begin between the ages of 13 and 15. It is astounding that up to 70% of children have tried smoking by age 16.

Again according to the CDC, nearly 6,000 kids a day try their first cigarette, and 3,000 of them will continue to smoke. One-thousand of them will die from smoking.

At the Judiciary Committee's October 29 hearing, Dr. Frank Chaloupa, a renowned researcher who has spent the last decade studying the effect of prices and policies on tobacco use, told us that ''there is an alarming upward trend in youth cigarette smoking over the past several years. Between 1993 and 1996, for example, the number of high school seniors who smoke grew by 14%, the number of 10th grade smokers rose by 23%, and the number of eighth grade smokers increased 26%.''

During the time between the issuance of the first Surgeon General's report in 1964 and 1990, the number of kids smoking was on the decline. Unfortunately, at that time, the number of children who try tobacco products started to rise.

Nearly all first use of tobacco occurs before high school graduation, which suggests to me that if that first use can be prevented, perhaps we can wean future generations off these harmful tobacco products.

We also know that adolescents with lower levels of school achievement, those with friends who use tobacco, and children with lower self-images are more likely to use tobacco. Experts have found no proven correlation between socio-economic status and smoking.

An element that is compelling to me as Chairman of the Judiciary Committee is the fact that tobacco use is associated with alcohol and illicit drug use and is generally the first substance used by young people who enter a sequence of drug use.

Public health experts have found a number of factors associated with youth smoking. Among them are: the availability of cigarettes; the widespread perception that tobacco use is the norm; peer and sibling attitudes; and lack of parental support.

Unfortunately, what many young people fail to appreciate is that cigarette smoking at an early age causes significant health problems during childhood and adolescence, and increased risk factors for adult health problems as well.

Smoking reduces the rate of lung growth and maximum lung functioning. Young smokers are less likely to be fit. In fact, the more and the longer they smoke, the less healthy they are. Adolescent smokers are more likely to have overall diminished health, not to mention shortness of breath, coughing and wheezing.

THE HEALTH EFFECTS OF SMOKING

We all know that tobacco is unhealthy. Just how unhealthy is hard to imagine.

According to a 1988 Surgeon General's report, the nicotine in tobacco is as addictive as heroin or cocaine.

Cigarette smoking is the leading cause of premature death and disease in the United States.

Each year, smoking kills more Americans than alcohol, heroin, crack, automobile and airplane accidents, homicides, suicides, and AIDS—combined. Cigarettes also have a huge impact on fire fatalities in the United States. In 1992, cigarettes were responsible for almost 23% of all residential fires, resulting in over 1,000 deaths and over 3,200 injuries.

And, Mr. President, too many Americans smoke.

According to the CDC, one-quarter of the adult population—almost 50 million persons—regularly smoke cigarettes.

In my home state of Utah, there are 30,000 youth smokers, grades 7–12, and 163,000 adult smokers. The Utah Department of Health has found that over 90% of current adult Utah smokers began smoking before age 18; 60% started before age 16. And I would note that it is note legal to smoke in Utah until age 19.

And, so, it has been established that tobacco products are harmful, that children continue to use them despite that fact, and that cigarettes can provide the gateway through which our youth pass to even more harmful behaviors such as illicit drugs.

CURBING TOBACCO USE

How can we reverse these trends? Many in the Congress have heeded the public health community's advice that increases in the price of tobacco products are the most important way that youth tobacco use can be curbed.

According to testimony that Dr. Chaloupa presented to us, for each 10% increase in price, there is corresponding overall reduction in youth cigarette consumption of about 13%. For adult smoking, Dr. Chaloupa has found, a 10% price increase only corresponds to a 4% decrease in smoking.

As Dr. Chaloupa relates, there are several factors which cause teenagers to be more responsive to cigarette prices, including: their lack of disposable income; the effect of peer pressure; the tendency of youth to deny the future; and the addictive nature of tobacco products.

The important thing about a price increase is not that it keep smokers from buying cigarettes, it is that it can help keep people from starting to smoke. If we can keep a teen from smoking, we may very well be keeping an adult from smoking. The important thing to keep in mind is that There is an exponential increase in risk based on when you start smoking. The earlier you start, the worse it is for your health.

Kids who smoke start out smoking less and then build up. After a few years, they are pack a day smokers. The national average for smokers is 19 cigarettes a day, one fewer than a pack.

Much has been debated about the effect of advertising on teen smoking. The plain fact is that kids prefer to smoke the most advertised brands. One study indicates that 85% of kids smoke the top three advertised brands, whereas only about a third of adults smoke those brands.

We also know that children are three times more affected by advertising expenditures than adults (in terms of brand preference). Research is unclear on the effect of advertising in terms of getting kids to start smoking. Movies, TV and peer pressure seem to be key factors, but kids deny that.

These facts lead me to conclude that it is in the national interest for us to undertake a campaign which will discourage the advertising of tobacco products to children and youth. In so doing, however, we must be mindful of the Constitution's First Amendment freedom of speech protections.

In fact, we also need to take advantage of the power that media hold over youth, and undertake counter-advertising on tobacco products. Public health experts advise me that there is good evidence that counter-advertising has a measurable and positive effect on teen smoking. However, the U.S. has never had a national counter-advertising campaign.

Restrictions on youth access are also an important part of the no-teen-smoking equation. While there is not a solid body of knowledge on this issue, it is important to note that Florida has an aggressive policy on enforcement of laws against youth smoking, and they now have a success rate of 10% for youths who try to buy tobacco products illegally vs. a 50% national average.

An equally important factor is the influence of the family in developing an atmosphere in which kids don't want to smoke. That is something we will never be able to legislate, any more than we can legislate against teen pregnancy. However, we can help families develop the skills and have the information they need to create as favorable a no-tobacco climate as possible in the home.

For example, we know that the more directed information kids receive, the less likely they are to smoke. We also know that kids are very attuned to hypocritical messages. For example, if a school has a no-smoking policy, but the teachers smoke, that can have a very detrimental effect.

WORK BY THE STATE ATTORNEYS GENERAL

Against that backdrop, a very courageous cadre of State Attorneys General began filing suits against the tobacco industry. Most of these suits, but not all, were based on the fact that the States' Medicaid costs were rising dramatically because of the costs of treating unhealthy smokers.

Subsequent to those suits, negotiations began with the tobacco industry, the AGs, a representative from the public health community, and the litigants from a large class-action tobacco suit, the Castano suit.

As some of my colleagues may be aware, Mrs. Castano is the lead plaintiff in the first class action lawsuit filed against the tobacco company in March 1994. She has testified before our Committee in favor of the proposed settlement and has presented a very compelling story.

Quite simply, Mrs. Castano related to us that her goal is to raise the public awareness about the power of nicotine. She told the Committee she believes that if the proposed agreement's health provisions were enacted, it would have prevented her husband's death. Peter Castano began smoking at 14, attempted to quit numerous times, and died of lung cancer at the age of 47 after smoking 33 years.

Mrs. Castano's legal team organized 64 law firms with individual pending cases and combined them into a large class eventually representing 60% of smokers, and this large class was had a place at the negotiation table.

Many of us watched the progress of those negotiations as we would watch a cliff-hanger sports event. We wanted a victory, but we couldn't believe our team could come from behind and win.

On June 20, those Attorneys General, led by Mississippi General Mike Moore, who had brought the first suit, made a dramatic announcement that a settlement had been reached. Six days later, the Senate Judiciary Committee held the first of the 16 congressional hearings that have been held thus far, during which we heard testimony from the tobacco industry, the State Attorneys General, and the public health community.

The settlement, which was ratified by the five major tobacco companies and which must have many of its provisions approved by Congress through implementing legislation, offers our Nation a once-in-a-generation opportunity to reduce teen smoking and to undertake a major anti-tobacco, anti-addiction initiative never before thought possible.

At this point, it would be useful to give a brief summary of the proposal which has been submitted to the Congress.

As proposed by the 40 State Attorneys General on June 20, 1997, this global tobacco settlement would require participating tobacco companies to pay $368.5 billion (not including attorneys' fees) over a 25-year period, the major of which will go to fund a major new national anti-tobacco initiative. Part of the money would also be used to establish an industry fund that would be used to pay damage claims and treatment and health costs to smokers.

During negotiations on the June 20 proposal, parties agreed there would be significant new restrictions on tobacco advertising. It would be banned outright on billboards, in store promotions and displays, and over the Internet. Use of the human images, such as the Marlboro Man, and cartoon characters, such as Joe Camel, would be prohibited. The tobacco companies would also be banned from sponsoring sports events or selling or distributing clothing that bears the corporate logo or trademark. The sale of cigarettes from

vending machines would be banned, and self service displays would be restricted. Cigarette and other tobacco packages must carry strong warning labels concerning the ill effects of cigarettes (such as, its use causes cancer) that cover 25% of the packages. The tobacco companies would have to pay for the anti-tobacco advertising campaigns.

Parties to the agreement would consent to the FDA's jurisdiction over nicotine. The FDA would have the authority to reduce nicotine levels over time. The FDA, however, could not eliminate nicotine from cigarettes before 2009. Furthermore, as part of the settlement, tobacco companies would have to demonstrate a 30 percent decline of aggregate cigarette and smokeless tobacco use by minors within 5 years, a 50 percent reduction within 7 years, and a 60 percent reduction within 10 years. If not successful, penalties may be assessed against the tobacco companies up to $2 billion a year.

In return, future class-action lawsuits involving tobacco company liability would be banned. This would settle suits brought by 40 States and Puerto Rico seeking to recover Medicaid funds spent treating smokers. Also settled would be one State class action against industry and 16 others seeking certification. Current class actions, therefore, would be settled, unless they are reduced to final judgment prior to the enactment of legislation implementing the agreement. Claimants who opt out of existing class actions would be permitted to sue for compensatory damages individually, but the total annual award would be capped at $5 billion. These amounts would be paid from the industry fund. In return for a payment (to be used as part of the industry fund), punitive damage awards would be banned. Nevertheless, claimants could seek punitive damages for conduct taking place after the settlement is adopted and implementing legislation is passed.

That is an overview of the settlement, as explained to the Judiciary Committee at our June 26 hearing.

Even a cursory examination of the settlement presents Congress with a clear question: should we seize the opportunity to undertake a serious new national war on tobacco by implementing certain liability reforms in exchange for enhanced FDA regulation, substantial industry payments, and, in short, a new national commitment.

JUDICIARY COMMITTEE CONSIDERATION

Our Committee has examined this in great detail, during four hearings.

At our second hearing, in July, we heard testimony from two constitutional experts, who advised the Committee on the constitutionality of the settlement, including its advertising provisions. That testimony was extremely valuable in both reassuring me that legislation could be written which would pass constitutional muster, and in guiding me on how an appropriate legislative framework should be crafted.

But as important as the legal issues are, we must never lose sight of the fact that this proposed settlement must be a public health document, a public health statement, a commitment on the part of our country.

At our third hearing, the Committee heard additional testimony from public health experts about the proposed settlement.

I recall with great clarity a very vivid statement made by Dr. Lonnie Bristow, the immediate past president of the American Medical Association and the only physician to participate in the global settlement discussions, who said this settlement has the potential to produce greater public health benefits than the polio vaccine.

In apprising the Committee about the enormous potential of the public health provisions contained in the settlement, Dr. Bristow recommended that our public health agenda with respect to smoking be guided by three ultimate objectives: First, significantly reducing the number of children who start smoking, second, reducing the number of existing smokers who will die from their addiction; and third, making the industry pay for the damage it has done.

Dr. Bristow also addressed the fundamental question of who will benefit from the proposed settlement, relating that the American Cancer Society has estimated one million children will be saved from premature death if certain key provision of the settlement are implemented. These include enforcement of proof-of-age laws, requiring point-of-purchase sales, mandatory licensing of retailers, dramatic restrictions on advertising, and stronger warning labels.

And so, it appears to me that the elements are there for development of a new national tobacco policy which will make unprecedented gains in public health. The question is whether this Congress has the wherewithal to make the tough decisions, with all the attendant political implications, in order to codify the settlement and move us toward a substantial new commitment to improving public health.

Three years ago, on the 30th anniversary of the first Surgeon General's Advisory Committee on Smoking and Health report, I received a letter from seven past Surgeon Generals of the United States, representing the Administrations spanning Eisenhower through Bush. In that letter, the Surgeon Generals said:

> While the scientific evidence is overwhelming and indisputable, significant policy changes in how this product is manufactured, sold, distributed, labeled, advertised and promoted have been slow in coming. There has been little federal leadership for policy changes for the last 30 years. It seems inconceivable to those of us in the public health community that this nation's single most preventable cause of death is also its least regulated.

They continued:

> As past Surgeons General of the United States we have had great hopes that a day would come before the year 2000 when we will achieve the goal of a smoke-free society. However, it is very clear from the past 30 years that such a goal will not be achieved unless there is federal leadership and a commitment to change that has as its goal the health and welfare of the American public.

And now the question before this body is whether we are willing to accelerate our efforts and rise up to the challenge offered us by the Surgeons General.

If ever there were to be such a time, it is now.

I believe that the June 20 proposal offers us the solid basis for such a national initiative.

I think it behooves the Congress to seize upon that initiative, to improve it where we can without jeopardizing any of its basic components, and to pass legislation immediately upon our return in January.

That task will not be easy. Since the settlement has provisions that span the jurisdiction of more than half the Senate committees, it will be a monumental procedural undertaking.

Nevertheless, after my considerable study of this issue, I have concluded it is in the national interest for us to approve the settlement, and I intend to do everything I can to move us toward the public health goals it offers.

INTRODUCTION OF THE PROTECT ACT

Accordingly, I am today introducing legislation I have drafted as a discussion vehicle and which I hope will engender the public debate we need on all the fine points of this massive issue so that we are ready to move legislation upon our return.

I expect this bill to be a ''lightening rod,'' a draft work product which can be refined over the next 2 months.

The proposed global tobacco settlement is incredibly complex. Drafting this legislation has required 101 decisions, many of them interrelated.

I am willing, indeed eager, to work with all interested parties to refine this legislation as it moves forward. What I am not willing to do, however, is further delay action on what could be the most important opportunity to advance public health in decades.

I have entitled the legislation I introduce today the ''PROTECT'' Act, or ''Placing Restraints on Tobacco's Endangerment of Children and Teens Act.''

I consider this to be a ''settlement plus'' bill. It retains and, indeed, strengthens the major provisions of the settlement; but, it does so in a carefully balanced way which I believe will not only pass constitutional muster but also could be enacted.

Let me be clear about what this bill is.

I consider this to be a discussion draft, a vehicle for the dialogue we must have about this important issue during the next 2 months when Congress is not in session and when we are able to consult with our constituents back home.

At the outset, let me say that I have aimed for a consensus document, a

piece of legislation which bridges the divide over contentious issues in a way that is legislatively viable.

Because it starts with this as a goal, I am painfully aware that this bill will totally please no one. Interest groups, by their very definition, advocate a particular position. Enactment of a tobacco settlement bill will require us to meld many of those positions, to develop a consensus around the center.

As a consensus document put out for discussion purposes, it is my intention that the PROTECT Act would be a useful departure point for future, productive discussions.

I am also cognizant of the anti-tobacco groups' interest in seeing a piece of legislation that does its utmost to discourage tobacco use.

I would like to do that as well.

That is my primary goal.

I say that not only as a Senator who represents a State which has the lowest smoking rates in the country, not only as a member of a Church which condemns the use of tobacco, but also as a Senator who has devoted the majority of his career to the public health.

Yet, many anti-tobacco groups may be disappointed because this bill is not as stringent as they would like. But I urge those who might believe this to keep an open mind. I think they will find that, in many cases, my bill is more stringent than the AG's proposal.

I would also urge them to keep in mind our primary goal of helping future generations of children. The only way to do that is to approve legislation, which necessitates legislation which is approvable. That is my goal—to get a good bill enacted. A bill that is ''perfect'' from the point of view of one side or the other cannot be enacted; it must be a consensus.

For that reason, the bill must also contain the legal reform provisions put forward by the attorneys' general. Those liability provisions were agreed to not only the industry, but also by the representatives of 40 states, by the public health community, and some members of the plaintiff's bar.

We should not fool ourselves into believing that such a massive anti-tobacco policy as is embodied in either the AG's proposal or the PROTECT Act can be enacted absent the liability provisions agreed to in June.

Yes, we should keep the pressure on for as anti-tobacco bill as we can. But if we are to enact this bill next year, which is my goal, we must be realistic. There are very few legislative days left, believe it or not.

GENERAL DESCRIPTION OF PROTECT ACT

Accordingly, I have drafted my bill as a global tobacco settlement, which mirrors in many ways the key components of the proposal put before us on June 20.

Unlike other bills introduced thus far this session, it is a comprehensive bill.

It contains all of the elements of the June 20 document, embodying the critical balance among the punitive, the preventive, and the realistic. It combines strong penalties on the tobacco industry with strict regulation of tobacco products by the FDA, implementation of a major national anti-tobacco, anti-addiction campaign, and defined liability protections for the tobacco industry.

The PROTECT Act requires substantial industry payments to fund state and federal public health activities, contains restrictions on tobacco advertising aimed at youth, and provides continuing oversight of the industry through a strong ''look-back'' provision.

In addition, the PROTECT Act improves on the state attorneys general June 20 settlement, in a number of key areas:

First, industry payments over 25 years will total $398.3 billion. Of those payments, $95 billion will represent the punitive damages for the tobacco industry's past reprehensible conduct. These funds will be devoted toward a National Institutes of Health Trust Fund for biomedical research, similar to the legislation drafted by our colleagues Senator Connie MACK and Senator Tom HARKIN.

Second, I have inserted a strong provision to preclude youth access to tobacco products, sponsored by our colleague Senator GORDON SMITH. Since the States have a substantial role in enforcing the laws precluding youth smoking, I have also made State receipt of the public health funds contained in this bill contingent upon enforcement of those youth anti-tobacco provisions.

Third, to address a concern expressed by members on both sides of the aisle, as well as the President, this bill provides transitional assistance to farmers modeled after the legislation introduced by Agriculture Committee Chairman DICK LUGAR, combined with educational assistance for retraining taken from the ''LEAF'' Act, drafted by Senators MCCONNELL, FORD, FAIRCLOTH, and HELMS. There is much to commend both of these bills, and I look forward to working with proponents of each to refine further these provisions as the legislation moves forward.

Fourth, a National Institutes of Health [NIH] Trust Fund is established with funds paid by tobacco companies for the settlement of punitive damages for their past reprehensible marketing of tobacco. It will significantly enhance research related to diseases associated with tobacco use, such as cancer, lung, cardiovascular and stroke—similar to Mack-Harkin. This fund would provide an additional $95 billion for biomedical research, a goal which clearly must rank at the top of our national agenda in this day of ever-emerging medical discoveries.

In earlier versions of this legislation, I had considered making these punitive damages not tax-deductible. However, upon further reflection about the precedent this would set in tax law, and the fact that the June 20 proposal was intended to be tax deductible, the bill I am introducing today does not contain that provision at this time.

Fifth, my legislation contains a substantial new program to enhance significantly Indian health care efforts, particularly related to tobacco use. This provision will be funded at $200 million per year.

Sixth, significant new funding is provided to States for anti-smoking, anti-addiction efforts. States will receive $186 billion directly. These funds will be allocated based on the agreement of the State attorneys general. States will be able to use whatever portion of the funds that would have been attributable to their State Medicaid match with no strings whatsoever. The portion that would be attributable to the Federal Medicaid match must be used for delineated health-related anti-tobacco programs. None of these funds are considered to be part of the Medicaid program, however. The Federal anti-tobacco program, administered by HHS, will provide an additional $92 billion to States, half of which will be administered through a block grant program.

Seventh, in a departure from the AG's agreement and the FDA rule, which regulates tobacco as a restricted medical device, the bill treats tobacco products as their own class and as unapproved drugs. However, the bill provides the FDA with substantial new authority over tobacco products, including the authority to control their composition through reductions or eliminations of all constituents. Unlike the AG agreement, though, which gives FDA the authority to ban tobacco products after 12 years, my proposal allows the Secretary to make that recommendation in any year, but it cannot be implemented unless approved by Congress.

Eighth, the ''look-back'' surcharge on tobacco manufacturers has been significantly strengthened with penalties more than doubled and the cap on payments removed. The Secretary may abate all or part of a penalty, totally at her discretion.

Ninth, after funding is provided for a limited program on tobacco-related asbestos liability, transitional agricultural assistance, and the new Indian health program, my bill divides the remaining funding in half. Fifty percent will be provided to the Federal Government for our new war on tobacco addiction and tobacco use. Fifty percent will be provided to the States for anti-tobacco programs.

These funds will be provided to each state by a formula agreed upon by the Attorneys General Allocation Subcommittee on September 16. My bill does not treat these payments to the states as Medicaid recoveries per se, and indeed, my bill waives the Medicaid subrogation law. However, for purposes of use of these State funds, the States will be able to retain that portion of the funds which would have

been attributable to their Medicaid matching rate, and use those funds with absolutely no restrictions. The portion of the funds which would have represented the Federal share under Medicaid, generally the larger share, must be used for certain anti-tobacco public health purposes delineated in the bill.

I want to take the opportunity today to discuss many of these areas in more detail.

NATIONAL TOBACCO SETTLEMENT TRUST FUND

The bill establishes a Trust Fund—termed the ''National Tobacco Settlement Trust Fund.'' This is the apparatus that takes the inflow of proceeds made by the participating tobacco manufacturers and makes payments to the states and various federal health programs.

Here is how the fund works: The participating manufacturers must deposit $398.3 billion in the Trust Fund. Of this amount, $303 billion reflects settlement for compensatory damages and $95 billion for the settlement of punitive damages for bad acts of the tobacco industry prior to the legislative settlement of the claims.

These amounts are deposited into two accounts: a state account for use to pay back the states for Medicaid expenditures and a federal account to fund health and tobacco anti-cessation programs. A detailed expenditure table is provided in the bill which earmarks where the payments are being made.

These payments represent a licensing fee, of which $10 billion is paid ''up front'' to the Trust Fund by the participating tobacco manufacturers and the remainder will be paid in annual amounts stipulated in the bill. The bill thereafter sets the base amount licensing fee that the participating manufacturers must pay to the Trust Fund for the 25 year base period.

The bill also provides for penalties and the possible loss of the civil liability protections of the Act if the participating manufacturers default on payments.

The U.S. Attorney General shall administer the Trust and the Secretaries of Treasury and Health and Human Services shall be co-trustees. To ensure that each participant of the tobacco settlement has a fair say, an advisory board is created to advise the Trustees in the administration of the Trust Fund. Four members are to be appointed by the House and Senate majority and minority leadership, and one member each representing the state attorneys general, the tobacco industry, the health industry, and the Castano plaintiffs' class.

NATIONAL TOBACCO PROTOCOL

The bill establishes a Protocol—in essence a binding contract among the federal government, the States, the participating tobacco manufacturers, and the Castano private class.

The primary purpose of the Protocol is to effectuate the consent decrees, which terminate the underlying tobacco suits. To receive the civil liability protections of the bill, the participating manufacturers must sign the Protocol. This works as a powerful incentive for the participating members of the tobacco industry to abide by the restrictions contained in the protocol.

Basically, the Protocol establishes restrictions on advertising by industry and includes general and specific restrictions, format and content requirements for labeling and advertising, and sets a ban on nontobacco items and services, contents and games of chance, and sponsorship of events.

Because these restrictions raise serious First Amendment concerns, and to avoid years of litigation that would surely tie up the implementation of the bill, we have placed these restrictions in the Protocol contract provision.

More specifically, here is how the Protocol works.

To be eligible for liability protection, each participating tobacco manufacturer must sign the Protocol and thus contractually agree to the provisions restricting their tobacco advertising.

The Protocol will also bind the manufacturer's distributors and retailers to agree to the restrictions by requiring that in any distribution or sales contract between these parties, the restrictions will become material terms. If a tobacco manufacturer, or one of his distributors or retailers, violates any provision contained in the Protocol, liability protection for the manufacturer is no longer afforded. The restrictions on advertising include prohibitions on outdoor advertising, in the use of human and cartoon figures, on advertising in the Internet, on point of sale advertising, and in sporting events. Advertising is also subject to brand name, types of media, and FDA restrictions

As I stated, the restrictions were placed in the Protocol because current statutory restrictions on tobacco advertising contained in a FDA final rule, and in other proposed legislation, raise serious constitutional questions.

It remains unclear whether such statutory restrictions violate the First Amendment's guarantee of freedom of speech. And this doubt invites years of litigation to determine whether or not the statutory restrictions are constitutional.

Rather than open the door to endless litigation, which could delay the implementation of the restrictions for years, I have made the restrictions contractual. Because the Protocol is a binding and enforceable contractual agreement between the interested parties, a challenge to the constitutionality of the restrictions is avoided. This, I believe, the wisest and most effective approach in dealing with tobacco advertising restrictions.

As a type of commercial speech, tobacco advertising is entitled to some, but not full, First Amendment protection. The law provides that commercial speech may be banned if it advertises an illegal product or service, and unlike fully protected speech, may be banned if it is unfair or deceptive. Even when it advertises a legal product and is not unfair or deceptive, the government may regulate commercial speech more than it may regulate fully protected speech. This is the case of tobacco advertising.

In May 1996, in *44 Liquormart, Inc.* v. *Rhode Island*, the Supreme Court increased the protection that the Supreme Court in its Central Hudson test guarantees to commercial speech by making clear that a total prohibition on the ''dissemination of truthful, nonmisleading commercial messages for reasons unrelated to the preservation of a fair bargaining process'' will be subject to a stricter review than a regulation designed to ''protect consumers from misleading, deceptive, or aggressive sales practices.''

This case may evidence a trend on the part of the Supreme Court's part to increase the First Amendment protection it accords to commercial speech. If this trend continues, a court is more likely to find that restrictions on tobacco—a legal product—is subject to stricter scrutiny than the traditional antifraud type commercial free speech cases, particularly when the tobacco advertising is truthful and nondeceptive.

The Protocol also contains a provision establishing an arbitration panel to determine the legal fees for the tobacco settlement and caps such awards to 5 percent of the amounts annually paid to the Trust Fund, any remainder to be paid the next fiscal year. The attorney fees are to paid by the manufacturers and are not to be counted against the Trust Fund fees and deposits. Finally, the Protocol may be enforced by the Attorney General, the State attorneys general, and the private signatories in the applicable courts.

THE CONSENT DECREES

The primary purpose of this section is to settle existing claims against the participating tobacco manufacturers. Once signed by the parties (federal and state governments, the Castano class private litigants, and the participating tobacco manufacturers) as an enforceable contract, the consent decree becomes effective on the date of the bill's enactment and allows for three important things: (1) a state receives Settlement Trust funding; (2) a manufacturer receives liability protection; and (3) the Castano claims are settled.

The consent decrees require the parties to agree to various restrictions, including restrictions on tobacco advertising, and on trade associations and lobbying, the disclosure of tobacco smoke constituents and nontobacco ingredients in tobacco products, the disclosure of important health documents, the dismissals of the various underlying tobacco suits, requirements for warning labels and other packaging restrictions, and the obligation to make payments for the benefit of the States, the private litigants, and the general public.

Pursuant to the consent decrees, the parties waive their right to bring constitutional claims. It also provides that the provisions are severable. The Attorney General must approve the consent decrees, and a state may bring an action to enforce provisions contained in the consent decree, if appropriate.

Civil Liability Provisions

In exchange for payments and other concessions, of which I already spoke, the tobacco manufacturers will gain certain benefits from the bill. It is these benefits which have given the tobacco companies the incentive to come forward and participate in the negotiations which were necessary to resolve the massive litigation surrounding tobacco use. Keep in mind that these benefits only apply to those tobacco manufacturers who voluntarily enter into the Protocol and consent decrees. There are several aspects to this section of the bill:

First, all actions which are currently pending against the manufacturers will be dismissed. Those actions include actions by states or local governments, class actions, or actions based on addiction to tobacco or dependency on tobacco. The tobacco companies will be immune from such class action claims in the future. I want to emphasize that personal injury claims will still be viable. An individual will still be able to make claims directly against tobacco companies after the enactment of the bill.

Second, the primary benefit which the tobacco companies will receive under this bill is relief from liability for punitive damages. This relief only applies to punitive damages for actions which the tobacco companies took prior to this bill's enactment. If, at some future date, the tobacco companies take some action or commit some wrong that would subject them to punitive damages, this bill will not relieve them of that future liability.

Third, this bill makes the participating manufacturers jointly and severally liable for damages arising out of claims by individuals. Of course, manufacturers who do not voluntarily consent to the terms of the protocol and consent decree will be treated separately and lawsuits involving both types of tobacco companies will be tried separately.

Fourth, the bill includes a cap on the amount of damages that can be paid out on individual claims each year. The cap is one-third of the total annual payments that are due from all the participating tobacco manufacturers. The excess over the cap and the excess of any individual claim over $1 million will be paid in the following year. Eighty percent of those payments to individuals will be credited toward payments due to the fund. These provisions were all drawn from the June 20th proposal and are drafted to be identical to that agreement.

Finally, as an enforcement mechanism, if a tobacco company which has signed the protocol and consent decree is delinquent in payment by more than 12 months, the benefits granted under this bill will no longer apply. The bill also contains enforcement mechanisms for material breaches of the protocol and consent decree. I must point out that nonsignatories—such as tobacco companies that refuse to sign the protocol and consent decrees—are not eligible to receive the civil liability protections in the bill.

With regard to a state's eligibility to receive funds under this bill, it is relatively simple. A state must dismiss any claims it has pending against the participating tobacco companies and it must adopt provisions in its state code which mirror the benefits granted to the participating tobacco companies in this bill. On an annual basis, the Attorney General will certify each state which is eligible to receive funds.

FDA JURISDICTION OVER TOBACCO PRODUCTS

It is may surprise some in this body to learn that the current provision in food and drug law that established the efficacy standard for drugs was enacted in 1962 through Judiciary Committee leadership when Senator Kefauver was chairman.

As the current chairman of the committee, I has great reservation about embarking down a path that appears to turn the world upside down and gut the normal safety and efficacy requirements as applied to medical devices by creating an exception that swallows the rule.

Using the restricted device law—a law whose purpose is to regulate a class of products that require special controls to help patients—to keep an inherently dangerous product on the market troubles me. I am not certain what kind of precedent this will be but I fear that it will be significant and of questionable necessity and benefit.

As I understand it, the only product that has been regulated under the restricted device provisions of the law are hearing aids. I am not sure why some apparently feel a compelling need to equate the treatment of cigarettes with hearing aids. I don't share this enthusiasm.

Judging by some of the public rhetoric since the June 20 announcement of the Attorney General's agreement, one of the most hotly contested areas of the proposed settlement concerns the provision addressing the Federal Government's authority to regulate tobacco products.

Since June 20 some have adopted the rallying cry of ''unfettered FDA authority'' and have suggested that there are major deficiencies in the proposed agreement relating to the ability of FDA to regulate tobacco products.

I suggest that the quality and substance of this debate would improve if we focus on the real issues.

As far as I am concerned, the substantive issue is not whether FDA should have authority over tobacco products; the real question is precisely how much and precisely what kind of authority that FDA should be delegated over these dangerous products.

Frankly, I am of the school that unfettered FDA authority is a bad idea. As a conservative, the notion of giving any Federal agency unfettered authority is a not a good idea.

Anyone who argues for the principle of unfettered FDA authority apparently has not ever read FDA's organic statute, the Federal, Food, Drug, and Cosmetic Act. This important law has its origins in the 1906 Pure Food and Drugs Act safeguards our Nation's supply of food, drugs, cosmetic, medical and radiological devices. My version of this law contains 254 pages of ''fetters'' on the FDA. And this does not even include the many pages of additional ''fetters'' placed on FDA in the Public Health Service Act provisions relating to the regulation of biologicals.

Frankly, I am not sure that many other executive agencies have as many fetters placed upon it as FDA. And that is a good thing. FDA performs such critical public health missions as approving new drugs and medical devices.

In a democratic society it is only reasonable to expect that the American public—which has some much at stake with respect to FDA's decisions—will require its elected representatives to watch closely what FDA is doing and enact legislation that will improve the efficiency of its operations.

Just this last Sunday, Congress completed its latest exercise in fettering the FDA when this Senate passed, and passed by a unanimous voice vote I must add, the FDA Modernization Act of 1997. This bill takes up fully 22 pages in the CONGRESSIONAL RECORD.

So if anyone is under the false impression that ''unfettered FDA authority'' is the norm, I would only invite them to read the statute and its latest modification.

The Congress would not, and should not, pass a bill that says in essence that FDA has unfettered authority over tobacco any more than we would pass laws that said that FDA has plenary, unfettered power over drugs and devices.

As I said earlier, the real question tobacco products is not if but what precise authority we give FDA over these products.

I think that Attorney General Mike Moore got it right as when he told several Senate Committees that all he asked from the public health community is to be told exactly how tobacco should be regulated.

There was no intent by the Attorney Generals, the Castano plaintiffs group, the public health representatives to act to undermine FDA's ability to regulate tobacco. For that matter, we must recognize that, even while they were, and are, litigating the issue of FDA authority in the Federal courts, the industry negotiators made unprecedented concessions in terms of FDA's authority in the June 20 agreement.

It is possible, as many legal experts believe, that the Fourth Circuit Court will rule that FDA does not have the authority to regulate tobacco.

One thing that I do know is that whatever happens at the court of appeals, the loser will likely appeal its decision.

This will take time, time in which more and more young children will start a lifetime addiction to tobacco products that will lead to illness and premature death.

Regardless of the outcome of this litigation, I am convinced that this Congress has a public duty to act, and act now.

Title IV of my bill describes in detail what I think is the appropriate way for FDA to regulate tobacco products.

First of all, let me start by taking my hat off to FDA and the Department of Health and Human Services under the leadership of Secretary Shalala for its creativity of using the existing food and drug laws in fashioning its final rules on youth tobacco.

In many ways, these regulations created the environment that made it possible for the negotiators to sit at the table and bring us the settlement proposal that we are considering today. So I take my hat off to the negotiators as well.

As fully explained in the preamble to the final rule and accompanying legal justification, one of the major reasons why FDA regulated tobacco products as restricted medical devices was because of the relative inflexibility of the drug laws versus the flexibility of the medical device laws.

We all know that this question is before the Fourth Circuit, and we expect a decision very soon. But regardless of the outcome of that case, many have expressed the concern that FDA has stretched the statute beyond the breaking point when it uses a statutory provision whose hallmark is the safety and efficacy standard in a fashion to reach products that are inherently unsafe and ineffective.

Call it what it is: A tobacco product is a tobacco product, not a medical device.

My proposal is to create a new regulatory chapter that exclusively addresses tobacco products. New chapter IX contains the rules that will apply to tobacco products.

If a tobacco product is not in compliance with this chapter it will run afoul of the FDC statute by the two new prohibited acts that S. 1530 creates in section 301 of the act. It will be against the law to introduce into interstate commerce any tobacco product that does not comply with these tough new provisions.

In addition, S. 1530 proposes to alter the definition of drug to include tobacco products that do not comply with new chapter IX. That means that nonconforming tobacco products will be subject to the rigid treatment accorded drugs. Talk about an incentive to comply with the new chapter.

My new proposed chapter IX includes many tough provisions including, tobacco product health risk management standards, good manufacturing standards, tobacco product labeling, warning, and packaging standards, reduced risk tobacco product standards, tobacco product marketing.

As well, my bill creates a Tobacco Products Scientific Advisory Committee that will advise the Secretary and FDA on all of these new standards.

I want to highlight that unlike the proposed settlement that my bill would allow the Secretary to recommend that tobacco products be banned at any time. The AG agreement had a 12-year bar to any such actions.

But because this decision is a major public health decisions with considerable political, social economic, and even philosophical consequences, I require that any such decision to ban products to be made personally by the Secretary and require the concurrence of Congress.

So please examine my proposal. I want to hear the comments and constructive criticism of all of my colleagues in this body and other interested parties and citizens.

From my experience, I know that FDA legislation is always controversial and contentious. There are always a lot of devilish details.

I put out this proposal in the interest of moving the tobacco debate forward in the Senate and in public debate.

I challenge those who have in an interest in FDA prevailing in court in the current litigation to put that litigation aside as you read my FDA language and consider what law you would write if you were not constrained by the current drug and device paradigms.

I salute those many public health groups and officials who have brought the antitobacco use battle so far in the last few years.

Let us start from a clean blackboard. I believe that my approach is preferable than to continue to stretch a perhaps already overstretched statute.

If any in this body believe that my proposal falls short, I hope they will tell me how. If some believe it is too lenient here and too rigid there, I hope they will respond with fixes, not with shouts.

I look forward to this aspect to the debate because of my long term interest in the FDA and the Federal Food, Drug, and Cosmetic Act. Let us take particular care in crafting this language and do so in a way that does not distract FDA from its core missions, including its central role in getting the latest in medical technology to the American public.

THE PRICE OF TOBACCO PRODUCTS

Another issue of keen concern to the public health community is the price of tobacco products. Earlier this year, I joined with several of my colleagues on both sides of the aisle to propose the Child Health Insurance and Lower Deficit Act, the CHILD bill. That bill, most of which has now been enacted as part of the Balanced Budget Act, made huge strides toward providing uninsured children with health care services, and it was predicated on a 43 cents increase in the excise tax on cigarettes.

We had a bipartisan coalition under the best of circumstances, and in the end, our 43 cents was whittled down to 10 cents phased up to 15 cents.

In that climate, I do not think it is reasonable for anyone to expect that this Congress will enact a cigarette excise tax of $1 or $1.50.

I do, believe, however, that there is consensus that it would be an important public health goal for the price of cigarettes and other tobacco products to be raised significantly to discourage youth consumption.

It is possible to do that without an excise tax, and that is what my bill does. Under my proposal, which predicates payments upon a Federal licensing fee, I estimate that when fully phased in year six, cigarette prices will go up an additional $1.09 per pack at the manufacturer level, which will be reflected in a retail level of $1.50 or more.

Economists have found that markups by cigarette manufacturers are always accompanied by increases down the distribution chain, including state excise tax increases. Thus, for purposes of this debate, I think it is critical that we discuss potential price increases in net terms, rather than the manufacturer markup.

There is an important reason to implement the agreement through a licensing payment, as opposed to a tax. Law enforcement officials have noted that the closer the price rise is to the source of the cigarettes, the less opportunity there is for diversion.

For example, if this bill were predicated on an excise tax, manufacturer sales to distributors would not reflect the higher price, and there would be ample opportunity for diversion into the black market of the cheaper goods.

In sum, I believe that my proposal will bring the price of cigarettes to a high level and do so in a way that discourages black market diversion.

Another issue of keen concern to the Congress are the tobacco farmers, most of whom could be displaced if this legislation is successful.

AGRICULTURAL PROVISIONS

Mr. President, we cannot forget about our country's tobacco farmers. Even though the tobacco farmers have the most to lose from the tobacco settlement, they were completely left out of the settlement negotiations.

Tobacco farms in this country are often small family run businesses, and in many cases, the entire economic foundation of a community is tied up in the production or processing of tobacco.

As many of my colleagues in the Senate know, I would probably be the last person to stand up and defend the tobacco industry or our nation's tobacco program. I feel strongly, though, that we should not turn our backs on tobacco farmers and their communities at a time when many will be harmed as a consequence of the tobacco settlement.

Senator LUGAR, the Chairman of the Senate Agriculture Committee, has introduced a bill that would end the tobacco program while providing payments and other assistance to tobacco farmers over a three-year transition period. His proposal follows the pattern established by the 1996 farm bill, by getting the government out the farming business and by making temporary assistance available to farmers as they adjust to the free market.

Senator FORD has introduced the LEAF Act, which provides some of the same assistance contained in Senator LUGAR's bill but adds additional grants and assistance for tobacco farmers and workers employed in the processing of tobacco. However, Senator FORD's bill maintains the tobacco program largely intact.

Frankly, Mr. President, I believe our tobacco communities have tough challenges ahead of them. For that reason, I have combined what I think are the best parts of each of these two bills into the PROTECT Act to ensure that we care for our nation's tobacco farmers and our tobacco dependent communities.

My bill establishes a Tobacco Transition Account, funded through the Trust Fund. The Transition Account will provide buyout payments to tobacco quota owners, who will lose their quotas, and assistance payments to farmers who lease their quotas from these owners. In addition, the PROTECT Act creates Farmer Opportunity Grants. These will be available to eligible family members of tobacco farmers to help pay for higher education. Eligibility requirements for Farmer Opportunity Grants will be similar to those of the Pell Grant program.

Mr. President, we should also remember the workers in the tobacco processing industry who could be displaced as a result of the tobacco settlement. The PROTECT Act sets up the Tobacco Worker Transition program. Patterned after the NAFTA Trade Adjustment Assistance program, the Tobacco Worker Transition program will provide assistance to displaced workers and help them receive job retraining.

Finally, Mr. President, the PROTECT Act will provide a total of $300 million over three years in block grants to affected states for economic assistance. Governors will be able to use these grants to help rural areas and tobacco dependent communities make the transition to broader based economies and to the free market.

NATIVE AMERICAN HEALTH PROVISIONS

Let me next turn toward another component of my legislation which relates to American Indians and Alaska Natives.

Tobacco use and abuse are significant health issues in Indian country. Native Americans smoke more than any other ethnic group—more than twofold for Indian men and more than fourfold for Indian women over non-Indians. The Centers for Disease Control estimate that 40 percent of all adult American Indians and Alaska Natives smoke an average of 25 or more cigarettes daily.

Moreover, according to the Indian Health Service [IHS] lung cancer remains the leading cause of cancer mortality. The IHS further reports that in some parts of the country 80 percent of Indian high school students smoke or chew tobacco. The statistics further show that smoking by American Indians is actually increasing while it is on the decline among other groups.

Clearly, in the context of this global tobacco settlement, measures must be taken to address the unique problems Indian country faces with the use and regulation of tobacco products.

Accordingly, my bill contains several Indian specific provisions that ensure tribal governments will have the regulatory authority to address issues of particular concern to tribal health officials while maintaining the interest of the tribe in its sovereign authority over activities occurring on its reservation.

These provisions have been developed, in part, on recommendations made at an October 6, 1997, oversight hearing on the tobacco settlement by the Committee on Indian Affairs on which I serve.

Let me also add that I welcome additional input from Indian country on these important provisions. Overall, my provisions are designed to recognize the unique interests of Indian country in the implementation of the act as well as provide assistance to improve the health status of native Americans.

Specifically, my bill makes clear that the provisions of the act relating to the manufacture, distribution and sale of tobacco products will apply on Indian lands as defined in section 1151 of title 18 of the U.S. Code.

The fundamental precept of the Indian provisions is that tribal governments will be treated as States in the implementation of the provisions of the act.

The Secretary of HHS, in consultation with the Secretary of the Interior, will be required to develop regulations to permit tribes to implement the licensing requirements of the act in the same manner by which the States are accorded this authority.

Indian tribes will also be considered as a State for purposes of receiving public health payments in order to carry out the provisions of the act and in accordance with a plan submitted and approved by the Secretary.

Indian tribes are permitted flexibility to utilize these funds to meet the unique health needs of their members as long as their programs meet the fundamental health requirements of the act.

The amount of public health payment funds for tribes will be determined by the Secretary based on the proportion of the total number of Indians residing on a reservation in a State as compared to the total population of the State. Moreover, a State may not impose obligations or requirements relating to the application of this act to Indian tribes.

Tobacco use remains a significant health factor for Indians and the costs associated for patient care and treatment are extremely high and result in a disproportionate allocation of limited IHS dollars for tobacco related illnesses.

Accordingly, my bill establishes a supplemental fund for the IHS to augment its program mission of providing health care services to Indians. A $5 billion account is established to be allotted to the IHS in increments of $200 million annually for 25 years.

ANTITRUST PROVISION

Let me also discuss another issue briefly. The proposed settlement is predicated upon the tobacco companies receiving immunity from antitrust laws in a number of limited areas. For example, in order to determine the price increase that will be passed on to consumers due to the settlement licensing fee. Another area in which such antitrust clarification will be needed is in enforcement of the protocol which accompanies the settlement legislation.

In introducing the bill today, I want to acknowledge that this language may need to be refined and tightened up. I do not intend to give the tobacco companies blanket antitrust immunity. That would be totally unwarranted.

I intend to work closely with Senators MIKE DEWINE and HERB KOHL, the chairman and ranking member of the Judiciary Subcommittee on Antitrust, to further polish this language. They have indicated their willingness to work with me on this issue, and I appreciate their expertise and assistance.

ASBESTOS

There exists medical evidence that tobacco use is a contributory factor in asbestos-related diseases and injuries. This bill contains a program to provide limited compensation for individuals who are exposed to asbestos and whose condition proven to have been exacerbated by tobacco use. The asbestos program is administered by the Secretary of Labor, who will establish standards whereby it can be demonstrated that tobacco is a significant factor in the cause of asbestos-related diseases. This program would be funded at $200 million per year and would complement the existing system for payments related to asbestos.

CLOSING

As I close, I would like to make one final observation. Three thousand kids a day start smoking; countless others start using smokeless tobacco products like snuff.

These children are becoming addicted to powerful tobacco products which can only harm them. The scientific evidence is clear.

I am extremely cognizant of the fact that there is a long history of legal use of tobacco products in this country.

Millions have used them; millions do use them.

I am trying to strike a delicate balance here: That of allowing adults to continue to use these products as they choose, but of discouraging it whenever we can and helping those who are addicted wean themselves from these powerful tobacco products.

But most importantly, we have to renew our efforts aimed at teen tobacco use. The funds provided in the global tobacco settlement will allow us to set that course.

Let me say right now that I fully anticipate criticism of my proposal from those who are afraid it is too large, and perhaps too bureaucratic.

To them I would say that the value of this proposal is in its size. We need to show that we are serious about stopping kids from smoking. We need to penalize the tobacco industry as part of that effort.

I have tried to rely upon the existing administrative structure wherever possible in the implementation of my plan. If others have a better way to run the program, I welcome their advice.

But to those who would advocate a smaller program, let me share my serious concerns about lowering the amount the tobacco industry has already agreed to pay.

I would also have serious concerns about raising the amount and using the funds for unrelated purposes. This is not the pot of money under the rainbow which will allow us to fund 60's-era left-leaning initiatives. This is a tobacco settlement which will provide us with significant new funding for new war on tobacco. A war to save our children.

My bill differs markedly from the others that have been introduced in that it is comprehensive, it includes all the components of the settlement in one piece of legislation, and it makes all the hard choices necessary to delineate how a settlement will operate. Further, it is drafted to be constitutional.

Many have begun to criticize my bill before they have even read it. It happened with the CHILD bill. It will happen again.

But to those who wish to sling barbs at my bill, I urge you to study it carefully. It is not the Kennedy bill. And, by the way, it was never intended to be. It is not the Lautenberg bill, nor the McCain bill.

It is a discussion draft intended to embrace, and improve, the proposed global tobacco settlement recommended to the Congress by 40 states this June. I welcome any suggestions for improvements which may be offered to my bill. That is why I am putting it forward today as a discussion vehicle.

I hope that the majority of Congress will agree with me that this should become a national priority, and begin to move legislation immediately upon our return in January.

In closing, Mr. President, I want to thank all of my colleagues who provide advice and assistance in drafting this legislation. It is clear that we must have a collaborative process if this legislation is to move forward, and I look forward to being a part of that process in the months to come. We can leave no greater legacy to our children.

I want to say a special thanks to Bill Baird in the Office of Legislative Counsel. He worked day and night to get this bill drafted for us, and I want to say publicly how much I appreciate this extra effort.

Anyone who wishes to read the entire text of the bill will soon be able to access it on the Hatch web page which can be reached at: ''www.senate.gov/~hatch/''. It will take us a day or two, but it will be available to the public. Since it is 308 pages, I think this is the most efficient way to make it available to the public. And, as I just said, I welcome suggestions.

Finally, for those who just want the digest version, I ask unanimous consent to insert a section-by-section summary of the PROTECT Act in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. SHORT TITLE; TABLE OF CONTENTS. Entitles the bill ''Placing Restraints on Tobacco's Endangerment of Children and Teens'' Act ''PROTECT'') and lists a table of contents.

Section 2. FINDINGS. Makes a series of congressional findings with respect to tobacco, its harmful health effects on children and adults, and the role of government in regulating tobacco products.

Section 3. GOALS AND PURPOSES. Sets forth the goals and purposes of the legislation, including decreasing tobacco use by youth and adults, enhancing biomedical research efforts, setting forth Federal standards for smoking in public establishments, establishing the authority of the Food and Drug Administration to regulate tobacco products, providing transitional assistance to farmers, and reforming tobacco litigation practices.

Section 4. NATIONAL GOALS FOR THE REDUCTION IN UNDERAGE TOBACCO USE. Sets out national goals for reduction in youth tobacco use. For cigarettes, the national goals, measured from the baseline year, will be a 30% reduction in use in 2003 and 2004; a 50% decrease in 2005, 2006 and 2007; and a 60% reduction thereafter. For smokeless tobacco, the national goals, measured from the baseline year, will be a 25% reduction in use in 2003 and 2004; a 35% reduction in 2005, 2006, and 2007; and a 45% reduction thereafter.

Section 5. DEFINITIONS. Defines pertinent terms used in the bill.

TITLE I—NATIONAL TOBACCO SETTLEMENT TRUST FUND

Section 101. ESTABLISHMENT OF TRUST FUND. Creates a National Tobacco Settlement Trust Fund that will receive payments from tobacco manufacturers according to a schedule set out in the bill. Over the next 25 years, deposits will be $398 billion, of which $95 billion are considered punitive damages and will be used to fund a biomedical research trust fund.

The National Tobacco Settlement Trust Fund will be administered by the Attorney General, the Secretary of Health and Human Services, and the Secretary of Treasury, and will be advised by a board composed of the Trustees and representatives of State attorneys general, public health experts, the Castano plaintiffs, and the tobacco industry. The initial $10 billion down payment from the tobacco industry, the continued annual payments, and any look-back or surcharge payments or penalties will be deposited into the Settlement Trust Fund.

The Settlement Trust Fund consists of a State Account and a Federal Account. Generally, as specified in section 101(c), the funds are distributed as follows: First, a portion of the total funds are set aside in the Federal Account for a transitional agriculture assistance program, a limited fund for asbestos-related litigation (where it can be proven that tobacco use was a cause of injury), and a new program to enhance Native American health. The remaining funds are divided equally with one-half provided to the States and one-half to the Federal government. In addition to the set aside funds for tobacco farmers, tobacco/asbestos plaintiffs, and Native American activities, the remaining funds from the Federal Account will be essentially divided equally between tobacco-related biomedical research and public health activities as provided in sections 521 and 522, respectively.

Funds from the State Account may be used by the states for both general purposes and for tobacco related programs as specified in sections 501 and 502, respectively. The Trustees are precluded from making an expenditure for programs which are currently being funded at either the Federal or State levels, so that the funds provided in this Act are supplemental to any on-going activities and not a substitution.

Section 102. PAYMENT SCHEDULE. As a condition of receiving the liability provisions contained in Title II, participating manufacturers must execute a protocol with the Secretary of Health and Human Services, each respective state attorney general, and Castano litigants, sign consent decrees with States and Castano plaintiffs, and deposit an initial $10 billion payment into the Trust Fund. In addition, to be eligible for the liability protections, manufacturers must make payments according to a schedule listed in the bill. The Trustees are authorized to adjust those continuing payments in two cases: 1) an annual inflation adjustment; 2) a volume adjustment which could either increase or reduce the base payments. The amount that each participating manufacturer will pay will be determined under the protocol appended to the agreement.

Section 103. ADMINISTRATIVE PROVISIONS. The Attorney General will hold the Trust Fund and will report annually to the relevant congressional committees on the financial condition of the Trust Fund. The Trustees will invest excess balances of the Fund in interest-bearing obligations of the U.S. and proceeds therefrom will become a part of the account. Members of the Trustees' advisory board shall serve without compensation, although travel expenses will be reimbursed, and overall costs of the advisory board are capped. Receipts and disbursements from the Trust Fund will not be included in the annual budget, and cannot be transferred to the general fund of the Treasury.

Section 104. ENFORCEMENT. Any participating manufacturer which fails to make payments required by the Act will be subject to daily fines. If the manufacturer has not made the required payment within one year, the manufacturer will be considered non-participating, will lose the liability protections contained in the Act, and will be ineligible from becoming a participating manufacturer in the future.

TITLE II—NATIONAL PROTOCOL AND LIABILITY PROVISIONS

SUBCHAPTER A—PROTOCOL RESTRICTIONS ON ADVERTISING

Section 201. REQUIREMENT. To be eligible for the liability protections contained in Subtitle C, each tobacco manufacturer shall enter into a binding and enforceable contract (''the Protocol'') in each state, with the Attorney General on behalf of the Chief Executive Officer of the state and representatives of the Castano litigants. As part of the protocol, a participating manufacturer shall agree, in any contract entered into with a distributor and retailer, to require the distributor and retailer to comply with the applicable terms of the protocol.

Section 211. APPLICATION OF SUBCHAPTER. The following provisions will be considered part of the Protocol.

Section 212. AGREEMENT TO PROHIBIT ADVERTISING. Parties to the executed Protocol agree that they will not use any form of outdoor product advertising, nor will they advertise in any arena or stadium where athletic, musical, artistic or other social or cultural events or activities occur. Parties also agree not to use human images or cartoon characters in tobacco-related advertising, labeling or promotional materials, and not to advertise tobacco products on the Internet. Parties also agree to limit point of sale advertising of tobacco products both in terms of number of advertisements and format, except in adult-only stores and tobacco outlets.

Section 213. GENERAL RESTRICTIONS. Parties agreeing to the Protocol will not use a trade or brand name of a non-tobacco product as the trade or brand name for a cigarette or smokeless tobacco product, except for products sold in the United States before January 1, 1995. Parties further agree to limit the media in which tobacco products will be advertised and will not make payments for placement of tobacco products in television programs, motion pictures, videos or video game machines.

Section 214. AGREEMENT ON FORMAT AND CONTENT REQUIREMENTS FOR LABELING AND ADVERTISING. Those signing the Protocol agree to limit tobacco-related advertising to black text on white background, except in certain cases such as vending areas not visible from the outside and adult publications. Further, parties using audio or video formats agree to certain limits, such as restrictions on music or sound.

Section 215. AGREEMENT TO BAN NONTOBACCO ITEMS AND SERVICES, CONTESTS AND GAMES OF CHANCE, AND SPONSORSHIP OF EVENTS. Parties to the Protocol agree to ban all non-tobacco merchandise bearing the brand name, logo or other identifier of tobacco products. They also agree not to offer any gift or item in connection with the purchase of a tobacco product. Parties agree not to sponsor any athletic, musical, artistic or other social/cultural event in which identifiers of tobacco products are used, although the use of a corporate number in use in the United States prior to January 1, 1995 would be permissible.

SUBCHAPTER B—PROVISIONS RELATING TO LOBBYING

Section 220. APPLICATION OF SUBCHAPTER. The provisions of this subchapter will be considered part of the Protocol.

Section 221. AGREEMENT TO PROVISIONS RELATING TO LOBBYING. A manufacturer signing the Protocol must require that any lobbyists it retains will sign an agreement consenting to comply with applicable laws and regulations governing tobacco products, including this Act and the consent decree under this Act, and agreeing not to support or oppose any Federal or State legislation without express consent from the manufacturer.

Section 222. AGREEMENT TO TERMINATE CERTAIN ENTITIES. Parties to the Protocol agree that, within one year of enactment, the Tobacco Institute and the Council for Tobacco Research, U.S.A. will be terminated, and that any successor organizations will meet strict guidelines with respect to membership and activities and will be subject to oversight by the Department of Justice.

SUBCHAPTER C—OTHER PROVISIONS

Section 225. APPLICATION OF SUBCHAPTER. The provisions of this subchapter will be considered part of the Protocol.

Section 226. DETERMINATION OF PAYMENT AMOUNT. Manufacturers agreeing to the Protocol will determine the percentages each specific manufacturer must pay.

Section 227. ATTORNEY'S FEES AND EXPENSES. Within 30 days of enactment, an arbitration panel will be appointed by the Trustees, the participating manufacturers, and State Attorneys General participating in the June 20, 1997 memorandum of understanding and the Castano litigants. The arbitration panel will establish procedures for its operation, receive petitions for attorneys' fees and expenses, and make awards based on enumerated criteria subject to an annual cap which is equal to 5% of the amount paid to the Trust Fund for the applicable year. Awards made by the panel will be paid by the participating manufacturers and will not be paid from the Trust Fund.

Section 228. LIMITATIONS WITH RESPECT TO INDIAN COUNTRY. Participating manufacturers will agree not to conduct any activity within Indian country that is otherwise prohibited under this Act, and agrees to sell or otherwise distribute tobacco products to an Indian tribe or tribal organization under the same terms and conditions as the manufacturer imposes on others.

Section 231. FEDERAL ENFORCEMENT OF THE PROTOCOL. Sets forth the terms and conditions under which the Attorney General may bring civil actions, including imposition of stiff penalties, to enforce the Protocol. The Attorney General may enter into contracts with state agencies to assist in enforcement. The Attorney General is authorized to utilize funds from the Trust Fund for performance of her duties under this section.

Section 232. STATE ENFORCEMENT OF THE PROTOCOL. The chief law enforcement officer of a state may bring actions to enforce the protocol if the alleged violation is the subject of a proceeding within that State. However, the State must first give the Attorney General 30 days' notice before commencing such a proceeding, and the State may not bring a proceeding if the Attorney General is diligently prosecuting or has settled a proceeding relating to the alleged violation.

Section 233. PRIVATE ENFORCEMENT OF PROTOCOL. A participating manufacturer may also seek a declaratory judgment in Federal District Court to enforce its rights and obligations under the Act, and may also bring a civil action against other participating manufacturers to enforce or restrain breaches of the contract. In general, no such actions may be commenced, however, if the Attorney General or applicable State is already pursuing an action on the same alleged breach.

Section 234. REMOVAL. The Act allows removal to Federal court of state claims which seek to enforce the Protocol.

SUBTITLE B—CONSENT DECREES

Section 241. CONSENT DECREES. For a State to receive funding under Title V, for a manufacturer to receive liability protections under subtitle C, and for settlement of the Castano claims, consent decrees must be signed effective on the date of enactment.

The consent decrees shall include provisions relating to restrictions on tobacco advertising and youth access, restrictions on trade associations and lobbying, disclosure on tobacco smoke constituents, disclosure of nontobacco ingredients in tobacco products, disclosure of all documents relating to health, toxicity, and addiction, the obligation of manufacturers to make payments for the benefit of States, the obligation of manufacturers to deal only with distributors and retailers that comply with all laws regarding tobacco products, requirements for warnings, labeling, and packaging, the dismissal of pending litigation as required under this Act, and any other matters deemed appropriate by the Secretary.

The consent decrees shall not include information on tobacco product design, performance, or modification, manufacturing standards and good manufacturing practices, testing and regulation with respect to toxicity and ingredients, and the national goals relating to reductions in underage use of tobacco. Constitutional claims shall be waived and the provisions are severable. The decree must be approved by the Attorney General. The decree shall remain in effect regardless of amendments to the Act, except as superseded by said amendments. A state may only seek injunctive enforcement of the consent decree in state court. The Attorney General will regulate to ensure consistency of state court rulings regarding consent decrees which are not exclusively local.

Section 242. STATE ENFORCEMENT OF CONSENT DECREES. A State may bring an injunctive action to enforce the terms of a consent decree which falls within its jurisdiction. It can only seek criminal or monetary relief for a subsequent violation of an injunction previously granted.

Section 243. NON-PARTICIPATING MANUFACTURERS. Provides an incentive for manufacturers to participate in the national tobacco control protocol. Non-participating firms will not be protected by the civil liability protections of this bill. A non-participating company will be required to transfer funds to the National Tobacco Settlement Trust Fund in an amount based on the proportion of the market share of the sales of the firm. Each non-participating manufacturer shall place into an escrow reserve fund each year an amount equal to 150% of its share of the annual payment required of participating manufacturers.

SUBTITLE C—LIABILITY PROVISIONS

Section 251. DEFINITIONS. Defines pertinent terms used in Subtitle C.

CHAPTER 1—IMMUNITY AND LIABILITY FOR PAST CONDUCT

Section 255. APPLICATION OF CHAPTER. This chapter is the sole enforcement mechanism and exclusive remedy for any claims against any participating manufacturer which have not reached final judgment or settlement by the effective date of this act. Any court judgment entered subsequent to this bill's enactment shall include express language subjecting the judgment to the act. No bond, penalty, or increased interest shall be required in connection with appeal of any judgment arising under this act.

Section 256. LIMITED IMMUNITY. All pending actions against participating manufacturers whether brought by a State or local government entity, as a class action, or as a civil action based on addition to or dependence, are hereby terminated. All participating manufacturers are hereby immune from any future action brought by a State or local governmental entity, as a class action,

or as a civil action based on tobacco addiction or dependence. Individual personal injury claims arising from the use of tobacco are preserved.

Section 257. CIVIL LIABILITY FOR PAST CONDUCT. This section applies to all actions permitted under section 256 for conduct before enactment. Punitive damages are prohibited.

All actions must be brought by individuals and may not be consolidated without consent of defendants. The only means to remove an action is if a defendant removes it to Federal court. Participating manufacturers must jointly share in civil liability for damages; they shall not be jointly and severally liable with non-participating manufacturers; and actions involving participating and non-participating manufacturers shall be severed. Permissible plaintiffs are individuals, their heirs, and third-party payers who are bringing individual claims for tobacco-related injuries and third-party payers whose claims are not based on subrogation that were pending on June 9, 1997. Defendants under this section are participating manufacturers, their successors or assigns, any future fraudulent transferees, or any entity for suit designated to survive a defunct signatory. Vicarious liability for agents applies. Subsequent development of reduced risk tobacco is not admissible or discoverable.

Aggregate annual cap is 1/3 of annual payments required of all signatories for the year involved. Excess amounts shall be paid in the following year. Signatories shall receive credit of 80% of amounts paid under judgments or settlements for the year involved. Any amount awarded over $1,000,000 may be paid in the following year. Each annual payment shall not exceed $1,000,000, unless all judgments in the first year can be paid without exceeding the aggregate annual cap. Defendants shall bear their own attorneys' fees and costs.

Section 258. CIVIL LIABILITY FOR FUTURE CONDUCT. This section applies to all actions permitted under section 256 for conduct after enactment. Sections 257(c) and (e) through (I) shall apply to actions under this section. Third-party payor claims not based on subrogation shall not be commenced under this section. There is no prohibition for punitive damages under this section.

Section 259. NON-PARTICIPATING MANUFACTURERS. This title shall not apply to non-signatories to the Protocol and participating manufacturers who are 12 months delinquent in payments due pursuant to the act.

Section 260. PAYMENT OF JUDGMENTS AND SETTLEMENTS. A participating manufacturer may seek injunctive relief in federal court to stop a state court from enforcing a judgment which is unenforceable under this chapter. The federal court shall issue an injunction if the participating manufacturer demonstrates that the judgment or settlement is unenforceable under this chapter.

Section 261. STATE ELIGIBILITY. A state shall be eligible to receive funds under this act if (1) (by the effective date of the act) it adopts sections 256 through 259 as unqualified state law and any defendant in a civil action under this act shall have a right to a prompt interlocutory appeal to the highest court of the state to enforce the requirements of state law; and (2) it withdraws and dismisses any claims required to be dismissed under section 256.

Within 6 months of the effective date of this act (with special provision for states whose legislature do not meet within that time frame), and annually thereafter, the AG shall certify that each state eligible to receive funds has complied with this section—states not certified shall not receive funds. No state claim may be maintained in any court of that state if it does not comply with subsection (a)(1) herein. This chapter governs any action by a state which is not in compliance with subsection (a)(1) herein but is otherwise maintainable in the state.

Section 262. REMOVAL. This section amends the existing code to enact the removal provisions and give the federal court jurisdiction.

Section 263. CONFORMING AMENDMENTS. The section conforms existing code sections with this act.

TITLE III—REDUCTION IN UNDERAGE TOBACCO USE

Subtitle A—State Laws Regarding the Sale of Tobacco Products to Minors

Section 301. STATE LAWS REGARDING SALE OF TOBACCO PRODUCTS TO INDIVIDUALS UNDER THE AGE OF 18. Expands upon what is popularly known as the ''Synar amendment'' (relating to the sale or distribution of tobacco products to individuals under the age of 18) P.L 102–321.

Effective in FY 1999 (or FY 2000 for States with legislatures which do not convene in 1999) and thereafter, a State which wishes to receive funding under Title V of this Act must have in effect a State law consistent with the provisions contained in the model law described in section 302. A State must enforce the law systematically and conscientiously and in a manner which can reasonably be expected to reduce the extent to which tobacco products are available to individuals under age 18. A State must also certify that enforcement of the law is a priority, conduct random, unannounced inspections to ensure compliance, and annually transmit to the Trustees a report describing its operation of the program. As a funding source for the program, States may use payments from the Trust Fund, grants under sections 1901 and 1921 of the Public Health Service Act, license fees or penalties collected pursuant to this Act, or any other funding authorized by the State legislature. The Trustees are authorized to reduce payments to States for noncompliance.

Section 302. MODEL STATE LAW. Describes the provisions of the model state law. Under that model, a series of conditions are placed on the sale of tobacco to restrict use by persons under age 18. It will be unlawful for a person to distribute a tobacco product to an individual under age 18. Persons who violate this section, and employers of employees who violate the section, are liable for civil penalties. Under the model, it is also unlawful for an individual under age 18 to purchase, smoke or consume (or attempt such acts) in a public place. Penalties are imposed for violations of this provision. Law enforcement agencies are required to notify promptly the parent(s) or guardians about such violations. Persons who sell tobacco products at retail must post signs communicating that the sale to individuals under 18 is prohibited. It is also unlawful for product samples or opened packages to be provided to anyone under 18, or for packages to be displayed so that individuals have direct access. Civil penalties for violations of these requirements apply.

The model law also requires employers who distribute tobacco products at retail to implement a program to ensure that employees are not distributing tobacco products to minors in violation of the preceding requirements. The model also requires appropriate state and local law enforcement officials to enforce the Act in a manner reasonably expected to reduce the extent to which individuals under age 18 have access to tobacco products. Under certain conditions, states are authorized to use individuals under age 18 to test compliance with this act. The Act also sets forth requirements for states to license persons engaged in the distribution of tobacco products, and describes the procedures which will be used for suspension, revocation, denial and non-renewal of licenses. States are required to report annually on compliance with the Act.

SUBTITLE B—REQUIRED REDUCTION IN UNDERAGE USAGE

Section 311. PURPOSE. Encourages achievement of dramatic and immediate reductions in the number of underage consumers of tobacco through substantial financial surcharges on manufacturers if targets are not met.

Section 312. DETERMINATION OF UNDERAGE USE BASE PERCENTAGES. Sets forth a methodology for the Secretary of HHS to set base percentages for the calculation by age group of children who use tobacco products.

Section 313. ANNUAL DAILY INCIDENCE OF UNDERAGE USE OF TOBACCO PRODUCTS. Five years after enactment, and annually thereafter, the Secretary shall make a determination according to the methodology set out in this section of the average annual incidence of daily tobacco use by individuals under age 18.

Section 314. REQUIRED REDUCTION IN UNDERAGE TOBACCO USE. Requires the Secretary to determine if the annual incidence of the daily use of tobacco products exceeds the national goals set forth in section 4.

Section 315. APPLICATION OF SURCHARGES. If the Secretary determines that the national goals have not been met in any year following year five, she will make a report to Congress outlining changes to the national program established in this act that she believes must be undertaken to move the country toward achievement of the national goals. The Secretary is authorized to impose a surcharge on cigarette manufacturers of $100 million per percentage point for each of the first five percentage points by which the goal is not met; the surcharge will be $200 million for each of the next five percentage points by which the goal is not met, and $300 million per percentage point for the amount that the goal is not met by eleven or more percentage points. In the case of smokeless tobacco products, which represent one-seventh of youth use of tobacco products, the potential lookback penalties will be $15 million per applicable percentage point for each of the first five points by which the goal is not met. The potential surcharge that could apply would be $30 million and $45 million for the next two five percentage point increments, respectively.

Five years after the surcharge provisions are applicable (the eleventh year after passage), the surcharge payments will be increased. For cigarettes, the surcharge payment will be $250 million for each of the first five percentage points that the goal is not met and $500 million for each additional percentage point by which the goal is not met. (E.g., If cigarette usage failed to meet the applicable target by 6 percentage points, in year 6 the surcharge assessment is $700 million, and in year 11 is $1.75 billion.) For smokeless tobacco products, the corresponding surcharge amounts will be $30 million and $60 million, respectively. This section provides an annual cap on surcharge payments for cigarettes of $5 billion for the first five years in which the surcharges apply under the Act (the sixth year after passage) and $10 billion thereafter. For smokeless tobacco products, the analogous caps are, $500 million and $1 billion, respectively.

Any surcharge imposed under this section is the joint and several obligation of all participating manufacturers (subject to the abatement provisions contained in section

316) as allocated by the market share of each manufacturer. Any funds generated under this section will be available to the Trust Fund.

Section 316. ABATEMENT PROCEDURES. A manufacturer who becomes subject to any surcharge that might be imposed under section 315 must first pay the surcharge, and then may petition the Secretary for abatement of the surcharge. The Secretary is required to hold a hearing on the abatement petition, during which the burden will be on the participating manufacturer to prove by a preponderance of the evidence that the manufacturer should be granted the abatement. The Secretary will make her decision based on criteria described in this section. She may abate all or part of the surcharge, but this is totally at her discretion. Judicial review of the Secretary's decision may be sought.

Section 317. INCENTIVES FOR EXCEEDING THE NATIONAL TOBACCO PRODUCTS USE REDUCTION GOALS. In any year, including the first five program years, that the ultimate national tobacco product use reduction goals are exceeded (a 60% reduction for cigarettes and a 45% reduction for smokeless tobacco products, tobacco manufacturers will be assessed reduced payments. This section provides that for payments related to cigarettes, for each percentage point by which the 60% reduction goal has been exceeded payments will be reduced by a factor of 1/80 per percentage point. (E.g., if cigarette use dropped by 80% from the base year in a given year, the payment would be reduced by 20/80th's, or 25%). The corresponding factor for smokeless tobacco products is 1/110 per percentage point that the 45% goal is exceeded.

TITLE IV—HEALTH AND SAFETY REGULATION OF TOBACCO PRODUCTS

SUBTITLE A—GENERAL AUTHORITY

Section 401. Amendments to Definitions Contained in the Federal Food, Drug, and Cosmetic Act. This title grants clear jurisdiction over tobacco products and establishes the framework for the Secretary of Health and Human Service, acting through the Food and Drug Administration, to oversee a new comprehensive regulatory system for tobacco products. ''Tobacco product'' and other relevant terms are defined for the first time in the FDA's basic regulatory statute, the Federal Food, Drug, and Cosmetic Act. This section adds two important new prohibited acts to the FD&C statute that make it illegal to manufacture and market tobacco products that do not comply with the new Tobacco Products chapter, Chapter IX. The bill amends the definition of ''drug'' to give FDA authority to regulate tobacco products as unapproved drugs if they do not comply with new Chapter IX. No change is made in the definition of ''medical device'' and this bill does not contemplate that tobacco products shall be regulated as restricted medical devices.

Adds a new Chapter IX to the Federal Food, Drug and Cosmetic Act, which will be entitled ''Health and Safety Regulatory Requirements Relating to Tobacco Products. It will contain the following new sections.

Section 900. Definitions. Definitions of the term ''cigarette,'' ''cigarette tobacco,'' ''nicotine,'' ''smokeless tobacco,'' ''tar,'' ''tobacco additive,'' and ''tobacco product'' will be added to the FD&C Act.

Sec. 901. Statement of General Duties. The Secretary of HHS is directed to undertake a number of regulatory activities, detailed in section 902 through section 908, in furtherance of the comprehensive health promotion and disease prevention program that the PROTECT Act establishes for tobacco products.

Sec. 902. Tobacco Product Health Risk Management Standards. This section directs the Secretary to issue regulations, through routine notice and comment rulemaking procedures and in consultation with public health experts, that establish rigorous controls over the composition of tobacco products. These regulations will include provisions relating both to the protection of confidential commercial information and for the public disclosure of the ingredients of tobacco products.

Such regulations will grant the Secretary the authority to issue regulations to assess and manage the risks presented by nicotine and reduce or eliminate constituents of tobacco products, or to ban tobacco products after the Secretary considers relevant factors. These factors include: reduction of public health risks; capacity of the health care system to provide effective and accessible treatments to current consumers of tobacco products; the potential creation of a significant market for contraband tobacco products; and, the technological feasibility of manufacturers to modify existing products. Secretarial actions to ban tobacco products will require a joint resolution of approval from both chambers of the United States Congress.

Sec. 903. Good Manufacturing Practice Standards for Tobacco Products. The Secretary shall issue regulations that specify the good manufacturing practices (GMP) for tobacco products. Such regulations will prescribe the methods used in, and the facilities and management controls used for, the manufacturing of tobacco products. The GMP regulations will contain requirements for registration and inspection of the tobacco product manufacturing establishments.

The GMP regulations promulgated by the Secretary shall contain provisions relating to pesticide residue levels and will provide for an advisory committee to recommend to the Secretary whether to approve, consistent with the public health, petitions for variances to the established residue level standards. The GMP requirements established by the Secretary shall include record keeping and reporting standards for tobacco products.

Sec. 904. Tobacco Product Labeling, Warning, and Packaging Standards. Section 904 stipulates new warning statements for both cigarettes and smokeless tobacco products. Section 904 provides format and type-size requirements and stipulates rotation schedules for tobacco product labels. Section 904 grants the Secretary the authority to issue regulations to revise tobacco product labeling statements and exempts tobacco product exports from these labeling requirements.

Sec. 905. Reduced Risk Tobacco Products. This section requires the Secretary to issue regulations that create incentives for the development and commercial distribution of reduced risks tobacco products. Under section 905 manufacturers of new technologies that reduce the negative health effects of using tobacco products notify, in confidence, the Secretary of such technology. Upon a determination that an innovation reduces the health risks of tobacco products and is technologically feasible, the Secretary may require that such risk reduction innovations be incorporated, through a licensing program, into other tobacco products.

Section 906. Tobacco Product Marketing Restrictions. Section 906 prohibits the sale of tobacco products to persons under 18 years of age and generally requires retailers to conduct sales in a face-to-face manner and to verify the age of tobacco purchasers. Under this section, cigarettes must be sold in packages with no fewer than twenty cigarettes; no free samples may be distributed; the vending machine sales must be eliminated except in certain limited adult facilities; and mail order sales must be accompanied by age verification procedures.

Section 907. Tobacco Products Scientific Advisory Committee. This requires the Secretary to establish a Tobacco Products Scientific Review Committee to assist in the development and in an on-going assessment of the effectiveness of the tobacco product health risk management standards required by section 902, the tobacco product good manufacturing standards required by section 903, the tobacco product labeling, warning, and packaging standards required by section 904, the reduced risk tobacco product provisions of section 905, and the tobacco product marketing restrictions required by section 906. This committee will primarily consist of experts in science, medicine, and public health but will also include experts in law and ethics and include representatives of both pro-, and anti- tobacco use groups.

Section 908. Report to Congress. Section 908 requires the Secretary to report to Congress biennially on the effectiveness of new Chapter IX and the other relevant provisions of the PROTECT Act, and other relevant laws and policies that relate to the nation's effort to reduce use of, and the health risks associated with, tobacco products. Such report will contain information on current use patterns and health effects of tobacco products with a particular emphasis on use of these products by those under 18 years of age. The Secretary shall also report to the Congress on recommended changes in legislation that will increase the effectiveness.

Section 909. Judicial Review Standards. This new section makes clear that in any judicial proceeding involving the regulations issued under Chapter IX, the courts will use procedures, apply standards of review, and grant the degree of deference that it normally accords the Secretary under the Federal Food, Drug, and Cosmetic Act.

Section 910. Preemption. This section permits state and local governments to enact requirements with respect to tobacco products so long as the state or local requirement does not conflict with a requirement of section 902, 903, 904, or 905.

Section 402. Repeals. This section repeals the Federal Cigarette Labeling and Advertising Act and the Comprehensive Smokeless Tobacco Health Education Act.

TITLE V—PAYMENTS TO STATES AND PUBLIC HEALTH PROGRAMS

SUBTITLE A—PAYMENTS TO STATES

Section 501. Reimbursement for State Expenditures. The Trustees will make available to the states one-half of the Trust Fund amounts each year (after payments have been allocated for tobacco farmers, Native Americans, and certain combined asbestos/tobacco plaintiffs), apportioned state-by-state according to a table listed in the Act which is based on the State Attorney Generals' agreement. The funds will be utilized by the States under two sets of conditions. Utilizing the Medicaid matching percentage rates, the portion of the funds which would have been attributable to the state matching share shall be used by the State for any purpose it deems appropriate. Federal subrogation is waived, and the amount that otherwise would have been returned to the Federal government will be retained by the State, but may only be used for certain specified anti-tobacco-related purposes as outlined in section 502.

Section 502. Requirements for States' Use of Certain Funds. As a condition of receiving funds which otherwise would have been returned to the Federal government, a state must submit to the Trustees a plan that describes the anti-tobacco programs for which the funds will be used, the measurable objectives that will be used to evaluate the program outcome, the procedures which will be

used for outreach, and efforts which are made to coordinate the new programs with existing Federal and State programs. The state must also collect necessary data and maintain records to allow the Trustees to evaluate the plan and its effectiveness. State plans and amendments thereto are deemed to be approved unless disapproved by the Trustee within 90 days of submission. Each year, the State must provide the Trustees with an assessment of the plan, including the effectiveness of the plan in reducing the number of children and adults who use tobacco products. In addition, the Trustees will provide an annual report on operations of the plan.

In order to retain the otherwise-Federal share, States must use the funds for anti-tobacco programs in coordination with existing Federal public health and social services programs, including child nutrition programs, maternal and child health, the State Children's Health Insurance Program, Head Start, school lunch, Indian Health Service, Community Health Centers, Ryan White, and social services block grant. States may also use these funds for smoking cessation programs that reimburse for medications or other therapeutic techniques, and anti-tobacco products public education programs, including counter-advertising campaigns.

SUBTITLE B—PUBLIC HEALTH PROGRAMS

Section 521. National Institutes of Health Trust Fund for Health Research. A National Institutes of Health Trust Fund for Health Research is established which reflects the settlement of punitive damages for past reprehensible behavior of the tobacco industry. This punitive damages fund will be funded from the National Settlement Trust Fund, and overall funding will amount to $95 billion over the first 25 years. In year 5 and thereafter, a total of $4 billion annually will be available under this section, subject to any required adjustments due to inflation, sales volume adjustments, and look-back penalties.

Section 521(e) requires the Director of the National Institutes of Health, in consultation with leading experts, to devise a National Tobacco and Other Abused Sustances Research Agenda. Funds provided under this section are expended as follows: NIH Director's Discretionary Fund, 2%; Research Facilities, 2%; health information communications, 1%; national cancer research and demonstration centers under section 414 of the Public Health Service Act, 10%; and, the remaining 85% shall be allocated to the established Institutes, Centers, and Divisions of NIH in the same proportion as the annual appropriations bill for NIH. Eligible research are stipulated in section 521(d)(2) and include diseases associated with tobacco use including cancer, cardiovascular diseases, and stroke.

Section 522. National Anti-Tobacco Product Consumption and Tobacco Product Cessation Public Health Program. Under this section, with the funds specified in section 101(c)(3)(C) of Title I of this Act, the Secretary shall establish and implement a national anti-tobacco product consumption and tobacco product cessation program. This program will be coordinated by the Office of Smoking and Health of the Centers for Disease Control and Prevention. In year 6 and thereafter, a total of $4 billion annually will be available under this section, subject to any required adjustments due to inflation, sales volume adjustments, and look-back penalties.

The Secretary may use funds under this section to offset HHS' administrative costs in carrying out the public health components of the PROTECT Act, including the additional costs attributable to the new regulatory responsibilities placed on the Food and Drug Administration under this Act. In carrying out this section, the Secretary may act under the general authorities provided under section 301 of the Public Health Service Act. In carrying out this program the Secretary must act in concert with state and local public health officials and non-governmental organizations and will consider, as appropriate, the public health recommendations made by the Castano class action plaintiffs.

This section requires the Secretary to undertake a substantial public education program, including the development and dissemination of materials that alert, in the most appropriate and effective fashion, the public to the risks of tobacco use, with a special emphasis on materials and techniques that are targeted to young Americans. The Secretary is also directed to make a special effort to inform current adult users of tobacco products of the health benefits of ceasing use of these products. Among the public education and information techniques authorized by this section is a publicly financed nationally directed counter-advertising campaign. The Secretary is also directed to develop and make available a model state anti-tobacco use and tobacco cessation program.

Section 522 directs the Secretary to make available at least one half the funds available under this section through section 101(c)(3)(C) to states in the form of vountary anti-tobacco use and tobacco cessation program block grants. Eligible activities for this block grant will be the same as those specified under 502(e). To the extent possible, the Secretary will harmonize the program management requirements under sections 502 and 522. The formula for the block grant will be devised by the Secretary but shall include such relevant factors as the number of children residing in each participating state.

TITLE VI - STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

Section 601. DEFINITIONS. Defines pertinent terms used in this section.

Section 602. SMOKE-FREE ENVIRONMENT POLICY. Requires a public facility to implement a smoke-free environment policy, which prohibits tobacco use within the facility and on facility property within the immediate vicinity of the facility's entrance. Requires the policy to be posted in a clear and prominent manner. Exceptions are granted to facilities which meets the requirements of a Specially Designated Smoking Area. No exception would be granted for restaurants, prisons, and congressional office buildings and the Capitol Building. There are special rules for schools and other facilities serving children.

Section 603. PREEMPTION. Precludes preemption of any other Federal, State, or local law in this area.

Section 604. REGULATIONS. Sets a 6-month period to promulgate the title's regulations.

Section 605. EFFECTIVE DATE. Sets an effective date of 6 months after the date the rules are promulgated, or 1 year after date of Act's enactment, whichever is later.

TITLE VII—PUBLIC DISCLOSURE OF HEALTH RESEARCH

Section 701. PURPOSE. Sets the purpose of this title to disclose previously nonpublic or confidential documents by tobacco product manufacturers.

Section 702. NATIONAL TOBACCO DOCUMENT DEPOSITORY. Establishes a National Tobacco Document Depository which will be used as a resource for litigants, public health groups, and other interested parties and which will contain documents described in the statute. The section also creates a Tobacco Documents Dispute Resolution Panel, to be composed of 3 Federal Judges appointed by the Congress, and outlines the Panel's structure, including its basis for determining a dispute, its final decision rule, and its assessment of fees policy. Provides for the Panel to establish a procedure for accelerated review and for a Special Masters.

Section 703. ENFORCEMENT. Allows the Attorney General to bring a proceeding before the Tobacco Documents Dispute Resolution Panel with appropriate notice requirements and civil penalty levels.

TITLE VIII—AGRICULTURAL TRANSITION PROVISIONS

Section 801. SHORT TITLE: ''Tobacco Transition Act.''

Section 802. PURPOSES. Terminates the federal tobacco program while making compensation to quota owners and tobacco farmers. Provides economic assistance to affected counties through block grants to affected states.

Section 803. DEFINITIONS. Defines pertinent terms used in Title VIII.

SUBTITLE A—TOBACCO PRODUCTION TRANSITION

CHAPTER 1—TOBACCO TRANSITION CONTRACTS

Section 811. TOBACCO TRANSITION ACCOUNT. Establishes the Tobacco Transition Account within the Trust Fund. Through this account, compensation will be made to quota owners and tobacco farmers. Economic assistance block grants to affected states will also be provided through the Transition Account.

Section 812. OFFER AND TERMS OF TOBACCO TRANSITION CONTRACTS. The Secretary of Agriculture shall offer to buy tobacco quotas from owners through a three-year payment period. All restrictions on the production and marketing of tobacco will be lifted in 1998, ending the tobacco quota program.

Section 813. ELEMENTS OF CONTRACTS. Within 90 days of enactment of this legislation, the Secretary to offer contracts to quota owners until June 31, 1999. Buyout payments and transition payments shall start at the beginning of the 1999 marketing year and end at the end of the 2001 marketing year.

Section 814. BUYOUT PAYMENTS TO OWNERS. During the three-year phaseout period, buyout payments will be made to quota owners as a compensation for the lost value they experience associated with the ending of the quota program. The payments will be determined by multiplying $8.00 by the average annual quantity of quota owned during the 1995–1997 crop years.

Section 815. TRANSITION PAYMENTS TO PRODUCERS. Provides assistance to farmers who do not own quotas but who leased from quota owners during three of the last four years. Transition payments only apply to the leased portion of the recipient's crop and will constitute a compensation to the producer for lost revenue caused by this act. The payments shall be determined by multiplying 40 cents by the average quantity of tobacco produced during the three years of the transition period.

Section 816. TOBACCO WORKER TRANSITION PROGRAM. Establishes a retraining program for displaced tobacco workers involved in the manufacture, processing or warehousing of tobacco or tobacco products. Patterned after the NAFTA Trade Adjustment Assistance program, the Governor and then the Secretary of Labor shall determine a group's eligibility for the program. The total amount of payments for the Tobacco Worker Transition Program is capped at $50,000,000 for any fiscal year, and after ten years the program will be terminated. Any individual receiving tobacco quota buyout payments are ineligible for this program.

Section 817. FARMER OPPORTUNITY GRANTS. Amends the Higher Education Act of 1965 to establish a grant payment for tobacco farmers and their families to pay for higher education. Grants will be made in the amount of $1,700 per year, rising to $2,900 annually by 2019. Academic eligibility requirements will mirror the standards regulating Pell Grants. Receipt of a Farmer Opportunity Grant will not affect a student's eligibility to receive other income-based assistance.

CHAPTER 2—RURAL ECONOMIC ASSISTANCE BLOCK GRANTS

Section 821. Rural Economic Assistance Block Grants. For each of the three years of the transition period, 1999 through 2001, the Secretary shall provide block grants to tobacco growing states to assist areas that are largely dependent on tobacco production. The grants will total $100 million for each of the three years, with a total cost of $300 million. The amount of each state's block grant will be based on (1) the number of counties within the state dependent on tobacco production and (2) the extent to which the counties are dependent on tobacco production. The Governor shall use a similar formula to apportion the state's grant to the counties. Use of the grants by the counties shall be approved by the Governor.

SUBTITLE B—TOBACCO PRICE SUPPORT AND PRODUCTION ADJUSTMENT PROGRAMS

CHAPTER 1—TOBACCO PRICE SUPPORT PROGRAM

Section 831. INTERIM REFORM OF TOBACCO PRICE SUPPORT PROGRAM. Amends Section 106 of the Agricultural Act of 1949 to phase out the tobacco price support program over the four years following the enactment of this act. In 1999, the price supports will decline by 25% and then by 10% in 2000 and in 2001, after which the price support program will be terminated.

Section 832. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM. Amends Section 101 of the Agricultural Act of 1949 to repeal the tobacco price support program after 2001.

CHAPTER 2—TOBACCO PRODUCTION ADJUSTMENT PROGRAMS

Section 835. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS. Amends the Agricultural Adjustment Act of 1938 to exclude tobacco from the provisions of the Act, effectively ending the Tobacco Production Adjustment Program.

SUBTITLE C—FUNDING

Section 841. TRUST FUND. Provides for the transfer of funds from Tobacco Transition Account (in the Trust Fund) to the Commodity Credit Corporation (CCC).

Section 842. COMMODITY CREDIT CORPORATION. Allows the Secretary to use the CCC in carrying out the provisions of this title.

TITLE IX—MISCELLANEOUS PROVISIONS

Section 901. PROVISIONS RELATING TO NATIVE AMERICANS. Provides that the requirements of this Act relating to the manufacturer, distribution and sale of tobacco products will apply on Indian lands as defined in section 1151 of title 18 of the U.S. Code. Any federal tax or fee imposed on the manufacture, distribution or sale of tobacco products will be paid by any Indian tribe engaged in such activities, or by persons engaged in such activities on such Indian lands, to the same extent such tax applies to other entities.

The Secretary, in consultation with the Secretary of the Interior, is authorized to treat Indian tribes as a state for purposes of this Act. The Secretary is authorized to provide any such tribe grant assistance to carry out the licensing and enforcement functions in accordance with a plan submitted and approved by the Secretary as in compliance with the Act.

A participating tobacco manufacturer shall not engage in any activity within Indian country that is prohibited under the Protocol. A state may not impose obligations or requirements relating to the application of this Act to Indian tribes and organizations.

Recognizing that tobacco use remains a significant risk factor for Indians and that cigarette smoking is more than twofold for Indian men and more than fourfold for Indian women over non-Indians, a supplemental fund is established for the Indian Health Service to raise the health status of Indians. The fund is established at $5 billion to be allotted to IHS at increments of $200 million annually for 25 years.

Section 902. WHISTLEBLOWER PROTECTIONS. A tobacco manufacturer or distributor may not retaliate against an employee for disclosing a substantial violation of law related to this Act to the Secretary, the Department of Justice, or any State or local authority. Said employee may file a civil action in federal court if he believes such retaliation has occurred (within two years of the retaliation). The court may order reinstatement of the employee, order compensatory damages, or other appropriate remedies. Employees who deliberately participate in the violation or knowingly provide false information are excluded from this section.

Section 903. LIMITED ANTITRUST EXEMPTION. Federal and state antitrust laws shall not apply to certain actions by manufacturers, which are taken pursuant to this Act, including entering into the Protocol or consent decree, refusing to deal with non-complying distributors, or other actions meant to comply with plans or programs to reduce the use of tobacco by children. In order for the exemption to apply, such plans or programs must be approved by the Attorney General pursuant to a process set forth in this section.

Section 904. EFFECTIVE DATE. The effective date will be the date of enactment.

By Mr. BREAUX (for himself and Mr. COCHRAN):

S. 1533. A bill to amend the Migratory Bird Treaty Act to clarify restrictions under that act of baiting, and for other purposes; to the Committee on Environment and Public Works.

THE MIGRATORY BIRD TREATY REFORM ACT

Mr. BREAUX. Mr. President, I am pleased to join with the distinguished senior Senator from the State of Mississippi, Senator COCHRAN, in introducing the Migratory Bird Treaty Reform Act. I believe it is legislation all of our colleagues should support.

As members of the Migratory Bird Conservation Commission, Senator COCHRAN and I recognize the importance of protecting and conserving migratory bird populations and habitat.

Eighty years ago, Congress enacted the Migratory Bird Treaty Act, which implemented the 1916 Convention for the Protection of Migratory Birds between Great Britain, for Canada, and the United States. Since then, the United States, Mexico, and the former Soviet Union have signed similar agreements. The Convention and the Act are designed to protect and manage migratory birds and regulate the taking of that renewable resource. They have had a positive impact, and we have maintained viable migratory bird populations despite the loss of natural habitat because of human activities.

Since passage of the Migratory Bird Treaty Act and development of the regulatory program, several issues have been raised and resolved. One has not—the issue concerning the hunting of migratory birds ''[b]y the aid of baiting, or on or over any baited area.''

A doctrine has developed in the federal courts by which the intent or knowledge of a person hunting migratory birds on a baited field is not an issue. If bait is present, and the hunter is there, he is guilty under the doctrine of strict liability. It is not relevant that the hunter did not know or could not have known bait was present. I question the basic fairness of this rule.

Mr. President, I do not want anyone to misunderstand me. I strongly support the Migratory Bird Treaty Act. We must protect our migratory bird resources from overexploitation. I would not weaken the Act's protections.

The fundamental goal of the Migratory Bird Treaty Reform Act is to address the baiting issue. It is the result of months of negotiation by the International Association of Fish and Wildlife Agencies' Ad Hoc Committee on Baiting. The Committee has representatives from each of the migratory flyways, Ducks Unlimited, the National Wildlife Federation, and the North American Wildlife Enforcement Officers Association.

Under this legislation, no person may take migratory birds by the aid of bait, or on or over bait, where that person knew or should have known the bait was present. It removes the strict liability interpretation presently followed by federal courts. In its stead, it establishes a standard that permits a determination of the actual guilt of the defendant. If the facts show the hunter knew or should have known of the bait, liability, which includes fines and possible incarceration, would be imposed. However, if the facts show the hunter could not have reasonably known bait was present, the court would not impose liability or assess penalties. This is a question of fact determined by the court based on the evidence presented.

This legislation would require the U.S. Fish and Wildlife Service to publish, in the Federal Register, a notice for public comment defining what is a normal agricultural operation for that geographic area. The Service would make this determination after consultation with state and federal agencies and an opportunity for public comment. The purpose of this provision is to provide guidance for landowners, farmers, wildlife managers, law enforcement officials, and hunters so they know what a normal agricultural operation is for their region.

The goal of the Migratory Bird Treaty Reform Act is to provide guidance to landowners, farmers, wildlife managers, hunters, law enforcement officials, and the courts on the restrictions

on the taking of migratory birds. It accomplishes that without weakening the intent of current restrictions on the method and manner of taking migratory birds; nor do the proposed provisions weaken protection of the resource.

Mr. President, I urge my colleagues to join us in supporting this important legislation, and I ask unanimous consent that the full text of this legislation be printed in the RECORD.

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

S. 1533

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 ''Migratory Bird Treaty Reform Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Migratory Bird Treaty Act was enacted in 1918 to implement the 1916 Convention for the Protection of Migratory Birds between the United States and Great Britain (for Canada). The Act was later amended to reflect similar agreements with Mexico, Japan, and the former Soviet Union.

(2) Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior is authorized to promulgate regulations specifying when, how, and whether migratory birds may be hunted.

(3) Contained within these regulations are prohibitions on certain methods of hunting migratory game birds to better manage and conserve this resource. These prohibitions, many of which were recommended by sportsmen, have been in place for over 60 years and have received broad acceptance among the hunting community with one principal exception relating to the application and interpretation of the prohibitions on the hunting of migratory game birds by the aid of baiting, or on or over any baited area.

(4) The prohibitions regarding the hunting of migratory game birds by the aid of bait, or on or over bait, have been fraught with interpretive difficulties on the part of law enforcement, the hunting community, and courts of law. Hunters who desire to comply with applicable regulations have been subject to citation for violations of the regulations due to the lack of clarity, inconsistent interpretations, and enforcement. The baiting regulations have been the subject of multiple congressional hearings and a law enforcement advisory commission.

(5) Restrictions on the hunting of migratory game birds by the aid of baiting, or on or over any baited area, must be clarified in a manner that recognizes the national and international importance of protecting the migratory bird resource while ensuring consistency and appropriate enforcement including the principles of ''fair chase''.

SEC. 3. CLARIFYING HUNTING PROHIBITIONS.

Section 3 of the Migratory Bird Treaty Act (16 U.S.C. 704) is amended—

(1) by inserting ''(a)'' after ''SEC. 3.''; and

(2) by adding at the end the following:

''(b)(1) No person shall—

''(A) take any migratory game bird by the aid of baiting, or on or over any baited area, where the person knows or reasonably should have known that the area is a baited area; or

''(B) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting or on or over the baited area.

''(2) Nothing in this subsection prohibits any of the following:

''(A) The taking of any migratory game bird, including waterfowl, from a blind or other place of concealment camouflaged with natural vegetation.

''(B) The taking of any migratory game bird, including waterfowl, on or over—

''(i) standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown; or

''(ii) grains, agricultural seeds, or other feed scattered solely as a result of—

''(I) accepted soil stabilization practices or accepted agricultural planting, harvesting, or manipulation after harvest; or

''(II) entering or exiting of areas by hunters or normal hunting activities such as decoy placement or bird retrieval, if reasonable care is used to minimize the scattering of grains, agricultural seeds, or other feed.

''(C) The taking of any migratory game bird, except waterfowl, on or over any lands where salt, grain, or other feed has been distributed or scattered as a result of—

''(i) accepted soil stabilization practices;

''(ii) accepted agricultural operations or procedures; or

''(iii) the alteration for wildlife management purposes of a crop or other feed on the land where it was grown, other than distribution of grain or other feed after the grain or other feed is harvested or removed from the site where it was grown.

''(3) As used in this subsection:

''(A)(i) Except as otherwise provided in this Act, the term 'baiting' means the intentional or unintentional placement of salt, grain, or other feed capable of attracting migratory game birds, in such a quantity and in such a manner as to serve as an attractant to such birds to, on, or over an area where hunters are attempting to take them, by—

''(I) placing, exposing, depositing, distributing, or scattering salt, grain, or other feed grown off-site;

''(II) redistributing grain or other feed after it is harvested or removed from the site where grown;

''(III) altering agricultural crops, other than by accepted agricultural planting, harvesting, or manipulation after harvest, altering millet planted for nonagricultural purposes (planted millet), or altering other vegetation (as specified in migratory bird hunting regulations issued by the Secretary of the Interior) planted for nonagricultural purposes; or

''(IV) gathering, collecting, or concentrating natural vegetation, planted millet, or other vegetation (as specified in migratory bird hunting regulations issued by the Secretary of the Interior) planted for nonagricultural purposes, following alteration or harvest.

''(ii) The term 'baiting' does not include—

''(I) redistribution, alteration, or concentration of grain or other feed caused by flooding, whether natural or man induced; or

''(II) alteration of natural vegetation on the site where grown, other than alteration described in clause (i)(IV).

''(iii) With respect only to the taking of waterfowl, the term 'baiting'—

''(I) does not include, with respect to the first special September waterfowl hunting season locally in effect or any subsequent waterfowl hunting season, an alteration of planted millet or other vegetation (as specified in such regulations), other than an alteration described in clause (i)(IV), occurring before the 10-day period preceding the opening date (as published in the Federal Register) of that first special season; and

''(II) does not include, with respect to the first regular waterfowl hunting season locally in effect or any subsequent waterfowl hunting season, such an alteration occurring before the 10-day period preceding the opening date (as published in the Federal Register) of that first regular season.

''(B) The term 'baited area' means any area that contains salt, grain, or other feed referred to in subparagraph (A)(i) that was placed in that area by baiting. Such an area shall remain a baited area for 10 days following complete removal of such salt, grain, or other feed.

''(C) The term 'accepted agricultural planting, harvesting, and manipulation after harvest' means techniques of planting, harvesting, and manipulation after harvest that are—

''(i) used by agricultural operators in the area for agricultural purposes; and

''(ii) approved by the State fish and wildlife agency after consultation with the Cooperative State Research, Education, and Extension Service, the Natural Resources Conservation Service, and the United States Fish and Wildlife Service.

''(D) The term 'accepted agricultural operations or procedures' means techniques that are—

''(i) used by agricultural operators in the area for agricultural purposes; and

''(ii) approved by the State fish and wildlife agency after consultation with the State Cooperative State Research, Education, and Extension Service, the State Office of the Natural Resources Conservation Service, and the United States Fish and Wildlife Service.

''(E) The term 'accepted soil stabilization practices' means techniques that are—

''(i) used in the area solely for soil stabilization purposes, including erosion control; and

''(ii) approved by the State fish and wildlife agency after consultation with the State Cooperative State Research, Education, and Extension Service, the State Office of the Natural Resources Conservation Service, and the United States Fish and Wildlife Service.

''(F) With respect only to planted millet or other vegetation (as designated in migratory bird hunting regulations issued by the Secretary of the Interior) planted for nonagricultural purposes, the term 'planted'—

''(i) subject to clause (ii), means sown with seeds that have been harvested; and

''(ii) does not include alteration of mature stands of planted millet or of such other vegetation planted for nonagricultural purposes.

''(G) The term 'migratory game bird' means any migratory bird included in the term 'migratory game birds' under part 20.11 of title 50, Code of Federal Regulations, as in effect October 3, 1997.''.

SEC. 4. PENALTIES.

Section 6(c) of the Migratory Bird Treaty Act (16 U.S.C. 707(c)) is amended as follows:

(1) By striking ''All guns,'' and inserting ''(1) Except as provided in paragraph (2), all guns''.

(2) By adding the following at the end:

''(2) In lieu of seizing any personal property not crucial to the prosecution of the alleged offense, the Secretary of the Interior shall permit the owner or operator of the personal property to post bond or other collateral pending the disposition of any proceeding under this Act.''.

By Mr. TORRICELLI:

S. 1534. A bill to amend the Higher Education Act of 1965 to delay the commencement of the student loan repayment period for certain students called to active duty in the Armed Forces; to the Committee on Labor and Human Resources.

THE VETERANS' STUDENT LOAN DEFERMENT ACT OF 1997

Mr. TORRICELLI: Mr. President, I rise today to introduce the Veterans' Student Loan Deferment Act of 1997. This important legislation will amend the Higher Education Act to preserve the 6-month grace period for repayment of federal student loans for reservists who have been called into active duty.

Throughout my career as a public official, I have always supported the brave men and women who serve our nation in the Reserve Components. These forces represent all 50 States and four territories, and truly embody our forefathers' vision of the American citizen-soldier. Reservists are active participants in the full spectrum of U.S. military operations, from the smallest of contingencies to full-scale theater war, and no major operation can be successful without them.

However, under current law, students who receive orders to serve with our military in places like Bosnia are returning home to discover that they have lost the six month grace period on their federal student loans and must begin making repayments immediately. I believe it is patently unfair and inconsistent with our increased reliance on the Reserve Forces to call up these students to serve in harm's way and, at the same time, to keep the clock running on the six month grace period for paying-back student loans. Enactment of my legislation would eliminate this serious inequity confronting students in the Reserves.

Mr. President, hundreds upon hundreds of New Jerseyans have been involved in Operation Joint Endeavor in Bosnia to date. Many of these courageous individuals had to withdraw from classes in order to serve their nation in uniform. Although the Department of Education can grant deferments to these students, federal law prohibits reinstating their grace period, so interest continues to accrue on their loans whenever they are not attending classes. It is important to note that this legislation will not provide these veterans with any special treatment or benefit. My legislation will simply guarantee that the repayment status on their student loans will be the same when they return home as when they left for service.

I feel very strongly that students should not be punished for serving in the Reserves, and believe that when they are called to serve our country, their focus should be on the mission, not on the status of their student loans. I am proud to offer this legislation on behalf of the hundreds of thousands of Reservists in the United States, and look forward to working with my colleagues to ensure its passage. 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. 1534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DELAY IN COMMENCEMENT OF REPAYMENT PERIOD.

(a) FEDERAL STAFFORD LOANS AND FEDERAL DIRECT STAFFORD/FORD LOANS.—Section 428(b)(7) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(7)) is amended by adding at the end the following:

''(D) There shall be excluded from the 6 month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in subparagraph (A)(i) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title).''.

(b) FEDERAL PERKINS LOANS.—Section 464(c) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)) is amended by adding at the end the following:

''(7) There shall be excluded from the 9 month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in paragraph (1)(A) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title).''.

By Mr, SANTORUM (for himself, Mr. LAUTENBERG, Mr. DEWINE, Mr. CHAFEE, Mr. COATS, Mr. GREGG, Mr. FEINGOLD, and Mr. SPECTER):

S. 1535. A bill to provide marketing quotas and a market transition program for the 1997 through 2001 crops of quota and additional peanuts, to terminate marketing quotas for the 2002 and subsequent crops of peanuts, and to make nonrecourse loans available to peanut producers for the 2002 and subsequent crops of peanuts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PEANUT PROGRAM IMPROVEMENT ACT OF 1997

Mr. SANTORUM. Mr. President, I rise to introduce legislation that will phase out the peanut quota program over 6 years, with the quota system being eliminated beginning in crop year 2002. I am joined in this effort by my colleague from New Jersey, Mr. LAUTENBERG, as well as other original cosponsors.

Under our legislation, the price support for peanuts grown for edible consumption is gradually reduced each year from the current support price of $610 per ton to $445 per ton by 2001. In the year 2002 and ensuing years, there would be no quotas on peanuts and the Secretary of Agriculture would be required to make non-recourse loans available to all peanut farmers at 85 percent of their estimated market value, consistent with the non-recourse loan program available for other agricultural commodities. In year 2002, and thereafter, the non-recourse loan is capped at the current world price of $350 per ton.

In determining quotas for the crop years 1998 through 2001, the Secretary would be required to consult with representatives of the entire industry. The Secretary would also be required to consider stocks in Commodity Credit Corporation's inventory at the beginning of the new crop year as well as a reasonable carryover to permit orderly marketing at the end of the crop year.

The bill also authorizes the complete sale, lease or transfer of poundage quotas across county and state lines. It abolishes the current limitation that now restricts sales, leases, and transfers to no more than 40 percent of the total poundage quota in the county within a state.

Under current law, additional peanuts (those produced in excess of the farmers' poundage quota) may only be sold for export or crushing. The bill would permit additional peanuts to also be used for sale to the Department of Defense, as well as to other federal, state or local government agencies, including for use in the school lunch program.

Mr. President, the federal peanut program is an anachronism. Born in the 1930's during an era of massive change and dislocation in agriculture, the program is sorely out of place in today's vibrant agricultural sector. While other farm commodities are seeking new export opportunities abroad, building new markets and helping to improve our national balance of trade; the peanut industry is building new barriers to protect its rapidly diminishing industry. Certainly imports are a factor, but the true threat to America's peanut farmer is the very quota system that he so stubbornly protects. Industry statistics show that the quota program is causing the demand for peanuts to fall sharply. The quota system stifles freedom for farmers, and it fosters a set of economic expectations that cannot be sustained without continued government intervention. Moreover, failure to reform this program costs consumers $500 million annually, and adds to the cost of feeding programs for low-income Americans.

This program must be changed. As sponsors of this measure, however, my colleagues and I recognize that the peanut program cannot be repealed overnight. That is why we are proposing a fair transition period to enable farmers and lenders to adjust their expectations to the marketplace. Following completion of the phase-out period, the peanut program will operate like most other agricultural commodities.

I am pleased that Senators DEWINE, CHAFEE, COATS, GREGG, and FEINGOLD have joined Senator LAUTENBERG and I as original sponsors of this measure, and I encourage my colleagues to support swift enactment of this important legislation.

By Mr. TORRICELLI (for himself and Ms. SNOWE)

S. 1536. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis and to help women make informed choices about their reproductive and post-menopausal health care, and to otherwise provide for research and information concerning osteoporosis and other related bone diseases; to the Committee on Labor and Human Resources.

THE EARLY DETECTION AND PREVENTION OF OSTEOPOROSIS AND RELATED BONE DISEASES ACT OF 1997

Mr. TORRICELLI. Mr. President, I rise today to introduce the Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 1997 along with my colleague from Maine, Ms. SNOWE.

Osteoporosis and other related bone diseases pose a major public health threat. More than 28 million Americans, 80 percent of whom are women, suffer from, or are at risk for, osteoporosis. Between three and four million Americans suffer from related bone diseases like Paget's disease or osteogenesis imperfecta. Today, in the United States, 10 million individuals already have osteoporosis and 18 million more have low bone mass, placing them at increased risk.

Osteoporosis is often called the ''silent disease'' because bone loss occurs without symptoms. People often do not know they have osteoporosis until their bones become so weak that a sudden bump or fall causes a fracture or a vertebra to collapse. Every year, there are 1.5 million bone fractures caused by osteoporosis. Half of all women, and one-eighth of all men, age 50 or older, will suffer a bone fracture due to osteoporosis.

Osteoporosis is a progressive condition that has no known cure; thus, prevention and treatment are key. The Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 1997 seeks to combat osteoporosis, and related bone diseases like Paget's disease and osteogenesis imperfecta, in two ways.

First, the bill requires private health plans to cover bone mass measurement tests for qualified individuals who are at risk for developing osteoporosis. Bone mass measurement is the only reliable method of detecting osteoporosis in its early stages. The test is noninvasive and painless and is as predictive of future fractures as high cholesterol or high blood pressure is of heart disease or stroke. This provision is similar to a provision in the Balanced Budget Act of 1997 that requires Medicare coverage of bone mass measurements.

Second, the Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act authorizes $1,000,000 to fund an information clearinghouse and $50,000,000 in each fiscal year 1999 through 2001 for the National Institutes of Health to expand and intensify its effort to combat osteoporosis and other bone-related diseases.

Funding for research on osteoporosis and related bone diseases is severely constrained at key research institutes like the National Institute on Aging. Further research is needed to improve prevention and treatment of these devastating diseases.

Money spent now on prevention and treatment will help defray the enormous costs of these diseases in the future. Currently, osteoporosis costs the United States $13,000,000,000 every year. The average cost of repairing a hip fracture, a common effect of osteoporosis, is $32,000.

Because osteoporosis is a progressive condition and affects primarily aging individuals, reductions in the incidence or severity of osteoporosis will likely significantly reduce osteoporosis-related costs under the Medicare program.

Medical experts agree that osteoporosis and related bone diseases are highly preventable. However, if the toll of these diseases is to be reduced, the commitment to prevention and treatment must be significantly increased. With increased research and access to preventive testing, the future for definitive treatment and prevention is bright.

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. 1536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 1997''.

(b) FINDINGS.—Congress makes the following findings:

(1) NATURE OF OSTEOPOROSIS.—

(A) Osteoporosis is a disease characterized by low bone mass and structural deterioration of bone tissue leading to bone fragility and increased susceptibility to fractures of the hip, spine, and wrist.

(B) Osteoporosis has no symptoms and typically remains undiagnosed until a fracture occurs.

(C) Once a fracture occurs, the condition has usually advanced to the stage where the likelihood is high that another fracture will occur.

(D) There is no cure for osteoporosis, but drug therapy has been shown to reduce new hip and spine fractures by 50 percent and other treatments, such as nutrition therapy, have also proven effective.

(2) INCIDENCE OF OSTEOPOROSIS AND RELATED BONE DISEASES.—

(A) 28 million Americans have (or are at risk for) osteoporosis, 80 percent of which are women.

(B) Osteoporosis is responsible for 1.5 million bone fractures annually, including more than 300,000 hip fractures, 700,000 vertebral fractures and 200,000 fractures of the wrists.

(C) Half of all women, and one-eighth of all men, age 50 or older will have a bone fracture due to osteoporosis;

(D) Between 3 and 4 million Americans have Paget's disease, osteogenesis imperfecta, hyperparathyroidism, and other related metabolic bone diseases.

(3) IMPACT OF OSTEOPOROSIS.—The cost of treating osteoporosis is significant:

(A) The annual cost of osteoporosis in the United States is $13.8 billion and is expected to increase precipitously because the proportion of the population comprised of older persons is expanding and each generation of older persons tends to have a higher incidence of osteoporosis than preceding generations.

(B) The average cost in the United States of repairing a hip fracture due to osteoporosis is $32,000.

(C) Fractures due to osteoporosis frequently result in disability and institutionalization of individuals.

(D) Because osteoporosis is a progressive condition and affects primarily aging individuals, reductions in the incidence or severity of osteoporosis, particularly for post menopausal women before they become eligible for medicare, has a significant potential of reducing osteoporosis-related costs under the medicare program.

(4) USE OF BONE MASS MEASUREMENT.—

(A) Bone mass measurement is the only reliable method of detecting osteoporosis at an early stage.

(B) Low bone mass is as predictive of future fractures as is high cholesterol or high blood pressure of heart disease or stroke.

(C) Bone mass measurement is a noninvasive, painless, and reliable way to diagnose osteoporosis before costly fractures occur.

(D) Under section 4106 of the Balanced Budget Act of 1997, Medicare will provide coverage, effective July 1, 1998, for bone mass measurement for qualified individuals who are at risk of developing osteoporosis.

(5) RESEARCH ON OSTEOPOROSIS AND RELATED BONE DISEASES.—

(A) Technology now exists, and new technology is developing, that will permit the early diagnosis and prevention of osteoporosis and related bone diseases as well as management of these conditions once they develop.

(B) Funding for research on osteoporosis and related bone diseases is severely constrained at key research institutes, including the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, the National Institute of Diabetics and Digestive and Kidney Diseases, the National Institute of Dental Research, and the National Institute of Child Health and Human Development.

(C) Further research is needed to improve medical knowledge concerning—

(i) cellular mechanisms related to the processes of bone resorption and bone formation, and the effect of different agents on bone remodeling;

(ii) risk factors for osteoporosis, including newly discovered risk factors, risk factors related to groups not ordinarily studied (such as men and minorities), risk factors related to genes that help to control skeletal metabolism, and risk factors relating to the relationship of aging processes to the development of osteoporosis;

(iii) bone mass measurement technology, including more widespread and cost-effective techniques for making more precise measurements and for interpreting measurements;

(iv) calcium (including bioavailability, intake requirements, and the role of calcium in building heavier and denser skeletons),

and vitamin D and its role as an essential vitamin in adults;

(v) prevention and treatment, including the efficacy of current therapies, alternative drug therapies for prevention and treatment, and the role of exercise; and

(vi) rehabilitation.

(D) Further educational efforts are needed to increase public and professional knowledge of the causes of, methods for avoiding, and treatment of osteoporosis.

SEC. 2. REQUIRING COVERAGE OF BONE MASS MEASUREMENT UNDER HEALTH PLANS.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act, as amended by section 703(a) of Public Law 104–204, is amended by adding at the end the following new section:

"SEC. 2706. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) REQUIREMENTS FOR COVERAGE OF BONE MASS MEASUREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall include (consistent with this section) coverage for bone mass measurement for beneficiaries and participants who are qualified individuals.

''(b) DEFINITIONS RELATING TO COVERAGE.—In this section:

''(1) BONE MASS MEASUREMENT.—The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on an individual for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure. Nothing in this paragraph shall be construed as requiring a bone mass measurement to be conducted in a particular type of facility or to prevent such a measurement from being conducted through the use of mobile facilities that are otherwise qualified.

''(2) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual who—

''(A) is an estrogen-deficient woman at clinical risk for osteoporosis;

''(B) has vertebral abnormalities;

''(C) is receiving chemotherapy or long-term gluococorticoid (steroid) therapy;

''(D) has primary hyperparathyroidism, hyperthyroidism, or excess thyroid replacement; or

''(E) is being monitored to assess the response to or efficacy of approved osteoporosis drug therapy.

''(c) LIMITATION ON FREQUENCY REQUIRED.—Taking into account the standards established under section 1861(rr)(3) of the Social Security Act, the Secretary shall establish standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this section. The Secretary may vary such standards based on the clinical and risk-related characteristics of qualified individuals.

''(d) RESTRICTIONS ON COST-SHARING.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to bone mass measurement under the plan (or health insurance coverage offered in connection with a plan).

''(2) LIMITATION.—Deductibles, coinsurance, and other cost-sharing or other limitations for bone mass measurement may not be imposed under paragraph (1) to the extent they exceed the deductibles, coinsurance, and limitations that are applied to similar services under the group health plan or health insurance coverage.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide incentives (monetary or otherwise) to individuals to encourage such individuals not to be provided bone mass measurements to which they are entitled under this section or to providers to induce such providers not to provide such measurements to qualified individuals;

''(3) prohibit a provider from discussing with a patient osteoporosis preventive techniques or medical treatment options relating to this section; or

''(4) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided bone mass measurements to a qualified individual in accordance with this section.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to undergo bone mass measurement.

''(g) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 713(g) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(h) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(i) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg–23(c)), as amended by section 604(b)(2) of Public Law 104–204, is amended by striking ''section 2704'' and inserting ''sections 2704 and 2706''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by section 702(a) of Public Law 104–204, is amended by adding at the end the following new section:

"SEC. 713. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) REQUIREMENTS FOR COVERAGE OF BONE MASS MEASUREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall include (consistent with this section) coverage for bone mass measurement for beneficiaries and participants who are qualified individuals.

''(b) DEFINITIONS RELATING TO COVERAGE.—In this section:

''(1) BONE MASS MEASUREMENT.—The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on an individual for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure. Nothing in this paragraph shall be construed as requiring a bone mass measurement to be conducted in a particular type of facility or to prevent such a measurement from being conducted through the use of mobile facilities that are otherwise qualified.

''(2) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual who—

''(A) is an estrogen-deficient woman at clinical risk for osteoporosis;

''(B) has vertebral abnormalities;

''(C) is receiving chemotherapy or long-term gluococorticoid (steroid) therapy;

''(D) has primary hyperparathyroidism, hyperthyroidism, or excess thyroid replacement; or

''(E) is being monitored to assess the response to or efficacy of approved osteoporosis drug therapy.

''(c) LIMITATION ON FREQUENCY REQUIRED.—The standards established under section 2706(c) of the Public Health Service Act shall apply to benefits provided under this section in the same manner as they apply to benefits provided under section 2706 of such Act.

''(d) RESTRICTIONS ON COST-SHARING.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to bone mass measurement under the plan (or health insurance coverage offered in connection with a plan).

''(2) LIMITATION.—Deductibles, coinsurance, and other cost-sharing or other limitations for bone mass measurement may not be imposed under paragraph (1) to the extent they exceed the deductibles, coinsurance, and limitations that are applied to similar services under the group health plan or health insurance coverage.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide incentives (monetary or otherwise) to individuals to encourage such individuals not to be provided bone mass measurements to which they are entitled under this section or to providers to induce such providers not to provide such measurements to qualified individuals;

''(3) prohibit a provider from discussing with a patient osteoporosis preventive techniques or medical treatment options relating to this section; or

''(4) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided bone mass measurements to a qualified individual in accordance with this section.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to undergo bone mass measurement.

''(g) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(h) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to

health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 731(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of such Act (29 U.S.C. 1191(c)), as amended by section 603(b)(1) of Public Law 104–204, is amended by striking ''section 711'' and inserting ''sections 711 and 713''.

(ii) Section 732(a) of such Act (29 U.S.C. 1191a(a)), as amended by section 603(b)(2) of Public Law 104–204, is amended by striking ''section 711'' and inserting ''sections 711 and 713''.

(iii) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

''Sec. 713. Standards relating to benefits for bone mass measurement.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act, as amended by section 605(a) of Public Law 104–204, is amended by inserting after section 2751 the following new section:

''SEC. 2752. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) IN GENERAL.—The provisions of section 2706 (other than subsection (g)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 713(g) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.

''(c) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 2762(a) shall not be construed as superseding a State law described in paragraph (1).''.

(2) CONFORMING AMENDMENTS.—Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)), as added by section 605(b)(3)(B) of Public Law 104–204, is amended by striking ''section 2751'' and inserting ''sections 2751 and 2752''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 1999.

(2) INDIVIDUAL MARKET.—The amendments made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

SEC. 3. OSTEOPOROSIS RESEARCH.

Subpart 4 of part C of title IV of the Public Health Service Act (42 U.S.C. 285d et seq.) is amended by adding at the end the following new section:

''RESEARCH ON OSTEOPOROSIS AND RELATED DISEASES

''SEC. 442A. (a) EXPANSION OF RESEARCH.—The Director of the Institute, the Director of the National Institute on Aging, the Director of the National Institute of Diabetes and Digestive and Kidney Diseases, the Director of the National Institute of Dental Research, and the Director of the National Institute of Child Health and Human Development shall expand and intensify research on osteoporosis and related bone diseases. The research shall be in addition to research that is authorized under any other provision of law.

''(b) MECHANISMS FOR EXPANSION OF RESEARCH.—Each of the Directors specified in subsection (a) shall, in carrying out such subsection, provide for one or more of the following:

''(1) Investigator-initiated research.

''(2) Funding for investigators beginning their research careers.

''(3) Mentorship research grants.

''(c) SPECIALIZED CENTERS OF RESEARCH.—

''(1) IN GENERAL.—The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct research on osteoporosis and related bone diseases. Subject to the extent of amounts made available in appropriations Acts, the Director shall provide for not less than three such centers.

''(2) ACTIVITIES.—Each center assisted under this subsection—

''(A) shall, with respect to osteoporosis and related bone diseases—

''(i) conduct basic and clinical research;

''(ii) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

''(iii) conduct training programs for such individuals;

''(iv) develop model continuing education programs for such professionals; and

''(v) disseminate information to such professionals and the public;

''(B) may use the funds to provide stipends for health and allied health professionals enrolled in training programs described in subparagraph (A)(iii); and

''(C) shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.

''(3) DURATION OF SUPPORT.—Support of a center under this subsection may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

''(d) DEFINITION OF RELATED BONE DISEASES.—For purposes of this section, the term 'related bone diseases' includes—

''(1) Paget's disease, a bone disease characterized by enlargement and loss of density with bowing and deformity of the bones;

''(2) osteogenesis imperfecta, a familial disease marked by extreme brittleness of the long bones;

''(3) hyperparathyroidism, a condition characterized by the presence of excess parathormone in the body resulting in disturbance of calcium metabolism with loss of calcium from bone and renal damage;

''(4) hypoparathyroidism, a condition characterized by the absence of parathormone resulting in disturbances of calcium metabolism;

''(5) renal bone disease, a disease characterized by metabolic disturbances from dialysis, renal transplants, or other renal disturbances;

''(6) primary or postmenopausal osteoporosis and secondary osteoporosis, such as that induced by corticosteroids; and

''(7) other general diseases of bone and mineral metabolism including abnormalities of vitamin D.

''(e) AUTHORIZATIONS OF APPROPRIATIONS.—

''(1) NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES.—For the purpose of carrying out this section through the National Institute of Arthritis and Musculoskeletal and Skin Diseases, there are authorized to be appropriated $17,000,000 for each of the fiscal years 1999 through 2001, and such sums as may be necessary for each subsequent fiscal year.

''(2) NATIONAL INSTITUTE ON AGING.—For the purpose of carrying out this section through the National Institute on Aging, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1999 through 2001, and such sums as may be necessary for each subsequent fiscal year.

''(3) NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES.—For the purpose of carrying out this section through the National Institute of Diabetes and Digestive and Kidney Diseases, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1999 through 2001, and such sums as may be necessary for each subsequent fiscal year.

''(4) NATIONAL INSTITUTE OF DENTAL RESEARCH.—For the purpose of carrying out this section through the National Institute of Dental Research, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1999 through 2001, and such sums as may be necessary for each subsequent fiscal year.

''(5) NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.—For the purpose of carrying out this section through the National Institute of Child Health and Human Development, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1999 through 2001, and such sums as may be necessary for each subsequent fiscal year.

''(6) SPECIALIZED CENTERS OF RESEARCH.—For the purpose of carrying out subsection (c), there are authorized to be appropriated $3,000,000 for each of the fiscal years 1999 through 2001, and such sums as may be necessary for each subsequent fiscal year.

''(7) RELATION TO OTHER PROVISIONS.—Authorizations of appropriations under this subsection are in addition to amounts authorized to be appropriated for biomedical research relating to osteoporosis and related bone diseases under any other provision of law.''.

SEC. 4. FUNDING FOR INFORMATION CLEARINGHOUSE ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

Section 409A(d) of the Public Health Service Act (42 U.S.C. 284e(d)) is amended by adding at the end the following sentence: ''In addition to other authorizations of appropriations available for the purpose of the establishment and operation of the information clearinghouse under subsection (c), there are authorized to be appropriated for such purpose $1,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 and 2001.''.

By Mr. SANTORUM:

S. 1538. A bill to amend the Honey Research, Promotion, and Consumer Information Act to improve the honey research, promotion, and consumer information program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ACT AMENDMENTS ACT OF 1997

Mr. SANTORUM. Mr. President, I rise to offer a measure to revise the Honey Research, Promotion and Consumer Information Act, the statute under which the National Honey Board is organized.

Briefly, my bill would impose a penny per pound assessment on handlers and importers of honey. This will increase the research budget of the Honey Board by approximately $500,000; and enable the industry to fund research programs aimed at addressing the serious problems caused by viruses, parasitic mites, and Africanized bees.

The bill also changes the constitution of the National Honey Board to improve packer representation on the board to reflect the imposition of a new assessment on honey handlers. Under my amendments, packers would have a total of four seats versus the current two. Producer and importer representation on the board will not change.

In developing my legislation, I worked the American Beekeeping Federation, which represents more than 1,400 honey producers nationwide. The amendments have the support of a broad coalition including producers, packers, and importers, and I encourage my colleagues to join me in this effort by approving this legislation.

By Mr. CHAFEE:

S. 1537. A bill to suspend until December 31, 2002, the duty on Benzoic acid, 2-{{1-{{(2,3-dihydro-2-oxo-1H-benzimidozal-5-yl) amino}; to the Committee on Finance.

S. 1539. A bill to suspend until December 31, 2002, the duty on N-{4-(Aminocarbonyl)phenyl}4-{{(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)amino) carbonyl}-2-oxopropyl}azo}benzamide; to the Committee on Finance.

S. 1540. A bill to suspend until December 21, 2002, the duty on Butanamide, N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-2-{{-(trifluoromethyl)phenyl}azo}-; to the Committee on Finance.

S. 1541. A bill to suspend until December 31, 2002, the duty on 1,4-Benzenedicarboxylic acid,2-{{1-{{(2,3-dihydro - 2 - oxo - 1H - benzimidazol - 5-yl)amino carbonyl}-2-oxopropyl}azo}-, dimethyl ester; to the Committee on Finance.

S. 1542. A bill to suspend until December 31, 2002, the duty on Butanamide, 2,2′- { 1-2,-ethanediylbis (oxy-2,1-phenyleneazo) }bis{N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-; to the Committee on Finance.

S. 1543. A bill to suspend until December 31, 2002, the duty on Benzenesulfonic acid, 4-chloro-2-{{5-hydroxy-3-methyl-1- (3-sulfophenyl)-1H-pyrazol-4-yl}azo}-5-methyl-.calcium salt (1:1); to the Committee on Finance.

S. 1544. A bill to suspend until December 31, 2002, the duty on 4 - {{5-{{{4-(Aminocarbonyl)phenyl } amino } carbonyl } -2-methoxyphenyl}azo}-N-(5-chloro-2, 4-dimethozyphenyl) -3-hydroxynaphthalene-2-carboxamide; to the Committee on Finance.

S. 1545. A bill to suspend until December 31, 2002, the duty on Benzenesulfonic acid, 4-{{3-{{2-hydroxy-3-{{4-methoxyphenyl) amino } carbonyl } -1-naphtha-lenyl}azo} -4-methylbenzoyl}amino}-, calcium salt (2:1); to the Committee on Finance.

S. 1546. A bill to suspend until December 31, 2002, the duty on Butanamide, 2,2′-{3,3′-dichloro{1,1′-biphenyl} -4,4′-diyl)bis(azo) }bis{N-(2,3-dihydro-2-oxo-1H-benzimidazol-5yl)-3-oxo; to the Committee on Finance.

S. 1547. A bill to suspend until December 31, 2002, the duty on Butanamide, N,N′-(3,3′dimethyl{1,1′-byphenyl } -4,4′ -diyl) bis { 2,4-dichlorophenyl)azo}-3-oxo-; to the Committee on Finance.

S. 1548. A bill to suspend until December 31, 2002, the duty on N-(2,3-Dihydro-2-oxo-1H-benzimidazol-5-yl)-5-methyl-4-{(methylamino) sulphonyl}phenyl}azo}naphthalene-2-carboxaminde; to the Committee on Finance.

S. 1549. A bill to suspend until December 31, 2002, the duty on Benzoic acid, 2-{{3-{{(2,3-dihydro-2-oxo-1H-1H-benzimidazol-5-yl)amino}carbonyl}-2-hydroxyl-1-naphthalenyl}azo}-, butyl ester; to the Committee on Finance.

S. 1550. A bill to suspend until December 31. 2002, the duty on Benzoic acid, 4-{{(2,5-dichlorophenyl) amino}carbonyl}-2{{2-hydroxy-3-{{(2-methoxypheny)amino}carbonyl}-1-naphthalenyl}-, methyl ester; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

Mr. CHAFEE. Mr. President, today I am introducing 13 bills to suspend the duty on the importation of certain products that are used by manufacturers in my home state of Rhode Island.

The products in question are organic replacements for colorants that use heavy metals—such as lead, molybdenum, chrome, and cadmium—in the plastics and coatings industries. Heavy metal colorants traditionally have been used in the coloration of plastics and coatings, especially where the applications are subjected to high heat, or where high weatherfastness or lightfastness are required. Until recently, finding substitutes for these heavy metal-based products was difficult. However, thanks to new formulations, a number of organic products have proved themselves to be satisfactory substitutes.

Reducing our reliance on heavy metal colorants makes sense environmentally. However, none of the organic substitutes in question are produced in the United States. Thus, our producers have no choice but to import the substitutes and pay the requisite import taxes, which range from 6.6 to 14.6 percent. The total price tag associated with these duties, while relatively small in the context of our federal budget, translates into a considerable business cost to the importing manufacturers. The added cost hurts their ability to compete, and thus their ability to maintain their workforce. Yet, given that there is no domestic industry producing these substitutes, the duties serve little purpose.

The package of bills I am introducing today would remedy this situation by suspending the duty on these thirteen products. As I say, none of these organic substitutes are produced in the United States, and therefore lifting the current duties will not result in harm to any domestic industry. Rather, suspending the duties will allow our domestic manufacturers to reduce costs, thus maintaining U.S. competitiveness and safeguarding Rhode Island jobs.

This is a critical point. I feel strongly that we in Rhode Island should do all we can to keep the state's economy going by creating jobs, encouraging business activity, and spurring new growth. These bills will help contribute to a productive manufacturing sector in Rhode Island, and aid our employers in keeping their costs down and their sales—and employment—up.

It is my hope that by introducing this package of legislation now, there will be ample time for review and comment on each bill, and that as a result, should the Senate take up comprehensive duty suspension legislation next year, these provisions will be ready for inclusion.

By Mr. CAMPBELL:

S. 1552. A bill to provide for the conveyance of an unused Air Force housing facility in La Junta, Colorado, to the city of La Junta; to the Committee on Armed Services.

THE LA JUNTA AIR BASE LAND CONVEYANCE ACT OF 1997

Mr. CAMPBELL. Mr. President, by way of legislation, I offer my support to the city of La Junta, Colorado, for its innovative and impressive response to the challenges facing the Lower Arkansas Valley. City officials have seized a unique opportunity to alleviate La Junta's housing crisis, expand the local Head Start program and increase access to child care, and solve Otero Junior College's dormitory problems.

The city of La Junta, in conjunction with Otero Junior College, has proposed to take over the recently closed La Junta Air Base family housing site. Until one year ago, when it was farmed out to a civilian defense contractor, the Air Force's test range for its bomber pilots was housed in La Junta. Since then, several federal agencies have expressed interest in the site, but none has asserted their formal desire to reuse the facility.

Further, taxpayers are spending nearly $100,000 annually to maintain an empty facility, while the city and residents of La Junta are losing out on a significant supplement to the local tax

base. The reuse plan I am endorsing provides for a self-sustaining and revenue generating housing and local services site, which is a well developed and cooperative solution to some very real local concerns.

Given the lack of any formal initiative on the part of a federal agency, which would be given priority consideration, I support the efforts of the city. Our college, Congressman BOB SCHAFFER, representing Colorado's 4th congressional district, has introduced legislation in the House of Representatives to convey the unused Air Force housing facility to the city of La Junta. Today, I am introducing a companion measure in the Senate.

It is my hope that this bill will be referred to the appropriate committee and receive expedited consideration through next year's authorizing and appropriations process.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 1553. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 with respect to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Environment and Public Works.

THE LONG ISLAND SOUND PRESERVATION AND PROTECTION ACT

Mr. D'AMATO. Mr. President, I rise today to introduce legislation along with my friend and colleague, Senator MOYNIHAN, that will help guarantee that one of our Nation's most important estuaries is no longer used as a dumping ground for polluted dredged material. Long Island Sound is a spectacular body of water located between Long Island, New York and the State of Connecticut. Unfortunately, past dumping of dredged material of questionable environmental impact has occurred in the sound. It is high time that Congress put an end to any future, willful pollution of the sound.

The legislation that we are introducing today will prevent any individual of any government agency from randomly dumping sediments into the ecologically sensitive sound. Specifically, the legislation prevents all sediments that contain any constituents prohibited as other than trace contaminants, as defined by federal regulations, from being dumped into either Long Island Sound or Block Island Sound. Exceptions to the act can be made only in circumstances where the Administrator of the Environmental Protection Agency shows that the material will not cause undesirable effects to the environment of marine life.

In the fall of 1995, the U.S. Navy dumped over 1 million cubic yards of dredged material from the Thames River into the New London dump site located in the sound. Independent tests of that sediment indicated that contaminants were present in that dredged material that now lies at the bottom of the sound's New London dump site—contaminants such as dioxin, cadmium, pesticides, polyaromatic hydrocarbons, PCB's, and mercury. Right now, there is a question as to the long-term impact this material will have on the aquatic life and the environment in that area of the ocean. Such concerns should not have to occur. It has taken years to come as far as we have in cleaning up Long Island Sound—we should not jeopardize those gains by routinely allowing the dumping of polluted sediments in these waters.

Vast amounts of federal, state, and local funds have been spent in the State of New York in the last quarter century combating pollution in the sound. However, at times over the last 25 years, we have looked the other way when it comes to dumping in the sound. Such actions are counter-productive in our efforts to restore the sound for recreational activities such as swimming and boating as well as the economic benefits of sportfishing and the shellfish industry—all of which bring more than $5.5 billion to the region each year.

New Yorkers realize the importance of the sound and are stepping up their efforts to make sure it is cleaned up. New York voters approved an environmental bond initiative that, among other things, commits $200 million for sewage treatment plant upgrades, habitat restoration, and nonpoint source pollution controls on Long Island Sound. New York is doing its part; it is time now to get the support of the federal government. With the actions taken by New York, and with the passage of the legislation Senator MOYNIHAN and I are introducing, I am confident that Long Island Sound will move steadily forward on the road to recovery. I urge my colleagues to join us in cosponsoring this bill, and I encourage its swift passage in the Senate.

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. 1553

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 ''Long Island Sound Preservation and Protection Act of 1997''.

SEC. 2. DUMPING OF DREDGED MATERIALS IN LONG ISLAND SOUND.

Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416) is amended by striking subsection (f) and inserting the following:

''(f) DUMPING OF DREDGED MATERIAL IN LONG ISLAND SOUND.—

''(1) PROHIBITION.—No dredged material from any Federal or non-Federal project in a quantity exceeding 25,000 cubic yards that contains any of the constituents prohibited as other than trace contaminants (as defined by the Federal ocean dumping criteria set forth in section 227.6 of title 40, Code of Federal Regulations) may be dumped in Long Island Sound (including Fishers Island Sound) or Block Island Sound, except in a case in which it is demonstrated to the Administrator, and the Administrator certifies by publication in the Federal Register, that the dumping of the dredged material containing the constituents will not cause significant undesirable effects, including the threat associated with bioaccumulation of the constituents in marine organisms.

''(2) COMPLIANCE WITH OTHER REQUIREMENTS.—In addition to other provisions of law and notwithstanding the specific exclusion relating to dredged material of the first sentence in section 102(a), any dumping of dredged material in Long Island Sound (including Fishers Island Sound) or Block Island Sound from a Federal project pursuant to Federal authorization, or from a dredging project by a non-Federal applicant, in a quantity exceeding 25,000 cubic yards, shall comply with the requirements of this Act, including the criteria established under the second sentence of section 102(a) relating to the effects of dumping.

''(3) RELATION TO OTHER LAW.—Subsection (d) shall not apply to this subsection.''.

By Mr. HATCH (for himself and Mr. LIEBERMAN):

S. 1554. A bill to provide for relief from excessive punitive damage awards in cases involving primarily financial loss by establishing rules for proportionality between the amount of punitive damages and the amount of economic loss; to the Committee on the Judiciary.

THE FAIRNESS IN PUNITIVE DAMAGES AWARDS ACT

Mr. HATCH. Mr. President, I rise today to introduce, along with Senator LIEBERMAN, the Fairness in Punitive Damages Awards Act. In general, this bill limits the amount of punitive damages that may be awarded in certain civil actions, primarily financial injury lawsuits, to three times the amount awarded to the claimant for economic loss or $250,000, whichever is greater.

These are cases where the claims essentially arise from breach of contract or insurance ''bad-faith'' or fraud injuries. The punitive damages limitation provision also excludes awards in cases where death, loss of limb, bodily harm, or physical injury occur. It generally does not encompass products liability and physical harm tort cases—cases where supporters of punitive damage awards contend that exemplary damages are needed to deter reckless behavior.

Thus, what sets this bill apart from previous measures is that it has been narrowly tailored to address concerns raised by the Administration and opponents of punitive damages limitations bills. We hope to attract bipartisan support because of the narrow scope of the bill, and, more significantly, because the bill addresses a major impediment to economic growth—runaway punitive damage awards, particularly in financial injury cases.

It is beyond doubt that our civil justice system is being plagued by an epidemic of punitive damage awards. In recent testimony before the Judiciary Committee, former Assistant Attorney General Theodore Olson noted that throughout the 19th until the mid-20th century, punitive damages were quite rare. ''For example, the highest punitive damages award affirmed on appeal

in California through the 1950's was $10,000. But the punitive damage landscape began to change dramatically in the 1960's. California's record for punitive damage awards affirmed on appeal soared to $15 million in the 1980's, an increase of 1,500 fold in just 30 years.'' In Alabama, according to Olson, an aggregate of only $409,000 in punitive damages had been affirmed on appeal during the period 1974–1978. The comparable total just 15 years later skyrocketed to $90 million.

Indeed, punitive damage lawyers have largely succeeded in taking over the civil justice compensation system. In 1960, according to a Rand study, punitive damages accounted for just 2% of total damages in civil cases in San Francisco, California. Thirty years later, according to Rand, punitive damages accounted for an amazing 59% of all damages in financial injury cases, and an even more amazing 80% in Alabama.

And the size of these awards is staggering and, I must add, irrational. Take the recent CSX Railroad case. Even though a federal probe found the railroad blameless in a tank car explosion on CSX owned tracks which caused relatively minor harm to some 20 plaintiffs in Louisiana, a state jury awarded $2.3 million in compensatory and $2.5 billion in punitive damages against CSX. Although the Louisiana Supreme Court at least temporarily barred this irrational verdict—because under Louisiana law no verdict for damages may be made until all the underlying claims are decided—a far more common practice is for courts to halve or reduce the punitive portion of the award. Of course, half of $2.5 billion is still a staggering amount to pay for any private entity. From coffee spills at McDonald's to medical malpractice, in the words of Morton Kondracke in a recent article in Roll Call, ''trial lawyers reap exorbitant profits by trolling for clients and convincing juries to sock it to supposedly deep-pocketed defendants. Consumers pay the bill as companies pass on their massive insurance premiums through higher prices.''

Indeed, the very efficiency of the American market has been weakened by these trends. Certainly, increased litigation and unnecessarily large punitive damage awards have increased the price of doing business. Undoubtedly, these costs have been passed on to consumers and have led to a decrease in productivity and a rise in unemployment. This is supported by a fairly recent study done by Representative and law professor Tom Campbell and other scholars, under the aegis of Stanford University, which demonstrated that in jurisdictions that reform the civil liability process—including placing caps on punitive damages—productivity and employment rise.

Furthermore, untenable jury verdicts create what Rand calls a ''shadow effect'' whereby verdicts totaling tens of billions of dollars send signals as to what other juries might do. Thousands of cases are settled, regardless of their merits, for fear of irrational verdicts. As a result of the shadow effect, consumers nationwide have been adversely affected through the withdrawal of products, producers, services, and service providers from the marketplace, and from excessive liability costs passed on to consumers through higher prices.

But the worst cost to our society is the delegitimization of the judicial process as a means of dispute resolution. Litigation today is often seen as an unpredictable ''crap shoot,'' where awards are rendered—not upon justice—but upon envy (who has the ''deep pockets'') or upon blatant emotionalism. So why not sue? Why not spin the wheel? Passage of this bill will help to ameliorate this misconception and restore faith in our civil justice system—which I believe is fundamentally sound.

Another reason for bipartisan support for this bill, one that I anticipate will attract many of our colleagues to the bill, is that we have addressed specific concerns which the Administration has expressed about previous bills. You may recall that last year when President Clinton vetoed the products liability bill, he claimed that the bill would protect drunk drivers and terrorists. Our bill will not apply to any case where the injury was caused by a person who was committing a crime of violence, an act of terrorism, a hate crime, a felony sexual offense, or that occurred when the defendant was under the influence of alcohol or drugs. These exceptions, combined with the bill's qualification that excludes cases where an individual has suffered a permanent physical injury or impairment, will ensure that this bill will not limit punitive damages in cases where such egregious conduct has occurred or where a serious injury has been inflicted.

Finally, we have included in the bill a provision specifically designed to protect small businesses, which form the backbone of Utah's and our country's economy. Excessive, unpredictable, and often arbitrary punitive damage awards jeopardize the financial well-being of many individuals and companies, particularly the Nation's small businesses. Under this bill, if the claim for damages is against an individual whose net worth is less than $500,000 or against a business with less than 25 full-time employees, then punitive damages are limited to the lesser of 3 times the economic loss or $250,000.

Establishing a rule of proportionality between the amount of punitive damages awarded and the amount of economic damages would be fair to both plaintiffs and defendants. In addition, we will take a step towards resolving the constitutional objection, raised by the United States Supreme Court last year in BMW of North America v. Gore, to punitive damages that are grossly excessive in relation to the harm suffered.

Mr. President, we must restore rationality, certainty, and fairness to the award of punitive damages. This bill is an important step in that direction. I urge my colleagues to join me in cosponsoring this legislation and encourage the Senate to act expeditiously on this important bill.

Mr. President, I ask unanimous consent that the entire text of the bill be placed in the RECORD.

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

S. 1554

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 ''Fairness in Punitive Damage Awards Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) punitive damage awards in jury verdicts in financial injury cases are a serious and growing problem, and according to a Rand Institute for Civil Justice study in 1997 of punitive damage verdicts from calendar years 1985 through 1994 in States that represent 25 percent of the United States population—

(A) nearly 50 percent of all punitive damage awards are made in financial injury cases (those in which the plaintiff is alleging a financial injury only and is not alleging injuries to either person or property);

(B) punitive damages are awarded in 1 in every 7 financial injury verdicts overall and 1 in every 5 financial injury cases in the State of California;

(C) between calendar years 1985 through 1989 and calendar years 1990 through 1994, the average punitive damage verdict in financial injury cases increased from $3,400,000 to $7,600,000;

(D) between calendar years 1985 through 1989 and calendar years 1990 through 1994, the award of such damages at the 90th percentile increased from $3,900,000 to $12,100,000;

(E) between calendar years 1985 through 1989 and calendar years 1990 through 1994, the total amount of punitive damages awarded increased from $1,200,000,000 to $2,300,000,000, for a 10-year total of $3,500,000,000;

(F) punitive damages represent a very large percentage of total damages awarded in all financial injury verdicts, increasing from 44 percent to 59 percent during the period analyzed; and

(G) in the State of Alabama, punitive damages represent 82 percent of all damages awarded in financial injury cases;

(2)(A) punitive damage verdicts are only the tip of the iceberg because only a small percentage of all complaints filed (1.6 percent according to a Department of Justice study in 1995) result in a jury verdict; and

(B) the Rand Institute of Civil Justice calls the impact of these verdicts on settlements the ''shadow effect'' of punitive damages;

(3) excessive, unpredictable, and often arbitrary punitive damage awards have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services;

(4) as a result of excessive, unpredictable, and often arbitrary punitive damage awards, consumers have been adversely affected through the withdrawal of products, producers, services, and service providers from the marketplace, and from excessive liability costs passed on to consumers through higher prices;

(5) excessive, unpredictable, and often arbitrary punitive damage awards jeopardize the financial well-being of many individuals and companies, particularly the Nation's small businesses, and adversely affect government and taxpayers;

(6) individual State legislatures can create only a partial remedy to address these problems because each State lacks the power to control the imposition of punitive damages in other States;

(7) it is the constitutional role of the national Government to remove barriers to interstate commerce and to protect due process rights;

(8) there is a need to restore rationality, certainty, and fairness to the award of punitive damages in order to protect against excessive, arbitrary, and uncertain awards;

(9) establishing a rule of proportionality, in cases that primarily involve financial injury, between the amount of punitive damages awarded and the amount of compensatory damages, as 15 States have established, would—

(A) be fair to both plaintiffs and defendants; and

(B) address the constitutional objection of the United States Supreme Court in BMW of North America v. Gore 116 S. Ct. 1589 (1996) to punitive damages that are grossly excessive in relation to the harm suffered; and

(10) permitting a maximum for each claimant recovery for punitive damages of the greater of 3 times the amount of economic loss or $250,000 is a balanced solution that would reduce grossly excessive punitive damage awards by as much as 40 percent, according to the Rand Institute for Civil Justice.

(b) PURPOSES.—Based upon the powers contained in Article I, section 8, clause 3 and section 5 of the 14th amendment of the United States Constitution, the purposes of this Act are to—

(1) promote the free flow of goods and services and to lessen burdens on interstate commerce; and

(2) uphold constitutionally protected due process rights by placing reasonable limits on damages over and above the actual damages suffered by a claimant.

SEC. 3. DEFINITIONS.

For purposes of this Act, the term—

(1) ''act of terrorism'' means any activity that—

(A)(i) is a violation of the criminal laws of the United States or any State; or

(ii) would be a criminal violation if committed within the jurisdiction of the United States or any State; and

(B) appears to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by assassination or kidnaping;

(2) ''claimant''—

(A) means any person who brings a civil action that is subject to this Act and any person on whose behalf such an action is brought; and

(B) includes—

(i) a claimant's decedent if such action is brought through or on behalf of an estate; and

(ii) a claimant's legal guardian if such action is brought through or on behalf of a minor or incompetent;

(3) ''economic loss'' means objectively verifiable monetary losses including medical expenses, loss of earnings, burial costs, loss of use of property, costs of repair or replacement, costs of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities, to the extent such recovery is allowed under applicable Federal or State law;

(4) ''harm'' means any legally cognizable wrong or injury for which punitive damages may be imposed;

(5) ''interstate commerce'' means commerce among the several States or with foreign nations, or in any territory of the United States or in the District of Columbia, or between any such territory and another, or between any such territory and any State or foreign nation, or between the District of Columbia and any State or territory or foreign nation;

(6) ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(7) ''punitive damages'' means damage awarded against any person to punish or deter such person, or others, from engaging in similar behavior in the future; and

(8) ''qualified charity'' means any organization exempt from filing information returns pursuant to section 6033(a) of the Internal Revenue Code of 1986 as that exemption exists on the effective date of this Act.

SEC. 4. APPLICABILITY.

(a) GENERAL RULE.—

(1) CIVIL ACTIONS COVERED.—Except as provided in subsection (b), this Act applies to any civil action brought in any Federal or State court where such action affects interstate commerce, charitable or religious activities, or implicates rights or interests that may be protected by Congress under section 5 of the 14th amendment of the United States Constitution and where the claimant seeks to recover punitive damages under any theory for harm that did not result in death, serious and permanent physical scarring or disfigurement, loss of a limb or organ, or serious and permanent physical impairment of an important bodily function. Punitive damages may, to the extent permitted by applicable State law, be awarded against a person in such a case only if the claimant establishes that the harm that is the subject of the action was proximately caused by such person. Notwithstanding any other provision of this Act, punitive damages may, to the extent permitted by applicable State law, be awarded against a qualified charity only if the claimant established by clear and convincing evidence that the harm that is the subject of the action was proximately caused by an intentionally tortious act of such qualified charity.

(2) QUESTION OF LAW.—What constitutes death, serious and permanent physical scarring or disfigurement, loss of a limb or organ, or serious and permanent physical impairment of an important bodily function shall be a question of law for the court.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The provisions of this Act shall not apply to any person in a civil action described in subsection (a)(1) if the misconduct for which punitive damages are awarded against that person—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) for which the defendant has been convicted in any court;

(B) constitutes an act of terrorism for which the defendant has been convicted in any court;

(C) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act, Public Law 101–275; 104 Stat. 140; 28 U.S.C. 534 note) for which the defendant has been convicted in any court;

(D) occurred at a time when the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug that may not lawfully be sold without a prescription and had been taken by the defendant other than in accordance with the terms of a lawful prescription; or

(E) constitutes a felony sexual offense, as defined by applicable Federal or State law, for which the defendant has been convicted in any court.

(2) QUESTION OF LAW.—The applicability of this subsection shall be a question of law for determination by the court. The liability of any other person in such an action shall be determined in accordance with this Act.

SEC. 5. PROPORTIONAL AWARDS.

(a) AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded to a claimant in any civil action that is subject to this Act shall not exceed the greater of—

(A) 3 times the amount awarded to the claimant for economic loss; or

(B) $250,000.

(2) SPECIAL RULE.—

(A) IN GENERAL.—Notwithstanding paragraph (1), in any civil action that is subject to this Act against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization that has fewer than 25 full-time employees, the amount of punitive damages shall not exceed the lesser of—

(i) 3 times the amount awarded to the claimant for economic loss; or

(ii) $250,000.

(B) APPLICABILITY.—For purposes of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary of a wholly owned corporation shall include all employees of a parent corporation or any subsidiary of that parent corporation.

(b) APPLICATION OF LIMITATIONS BY THE COURT.—The limitations in subsection (a) shall be applied by the court and shall not be disclosed to the jury.

SEC. 6. PREEMPTION.

Nothing in this Act shall be construed to—

(1) create a cause of action for punitive damages;

(2) supersede or alter any Federal law;

(3) preempt or supersede any Federal or State law to the extent such law would further limit the award of punitive damages; or

(4) modify or reduce the ability of courts to order remittitur.

SEC. 7. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

SEC. 8. EFFECTIVE DATE.

This Act applies to any civil action described in section 4 that is commenced on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

By Mr. FAIRCLOTH:

S. 1555. A bill to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; to the Committee on Finance.

THE INTERNAL REVENUE SERVICE OVERSIGHT, RESTRUCTURING AND TAX CODE ELIMINATION ACT OF 1997

Mr. FAIRCLOTH. Mr. President, today I am introducing S. 1555, the ''Internal Revenue Service Oversight, Restructuring and Tax Code Elimination Act of 1997.'' This legislation establishes an oversight board composed of private citizens to review the policies and practices of our nation's tax collection agency. The measure also eliminates the existing tax code by December 31, 2000, and eliminates the Internal Revenue Service by the end of the Year 2000 fiscal year.

Mr. President, the American people have been telling this Congress that all

is not right at the Internal Revenue Service, and it is time for the Congress to do something about it. Of course, no one enjoys paying their taxes, but the American people voluntarily comply with the tax code to a degree that is the envy of governments around the world. They do so because they want to do what is right. They deserve to be treated fairly, and they deserve a tax system that supports working families, not one that punishes them.

This past September, the Senate Committee on Finance held hearings in which taxpayers described the many abuses they have suffered at the hands of the Internal Revenue Service. The general theme of those hearings was an agency which has become arrogant and unresponsive to the American people, ruining businesses and causing considerable suffering to the men and women who were unlucky enough to be the focus of IRS scrutiny. For most Americans, those hearings were an all too familiar reflection of a painful episode in their own lives.

Mr. President, something must be done about the Internal Revenue Service and the massive Internal Revenue Code of 1986. Our tax code is incomprehensible to all but a few tax attorneys who make their living off of the current chaos created by our tax laws. What is worse, the agency charged with enforcing our tax laws has developed procedures to target their auditing efforts at middle class taxpayers.

The time has come to get rid of the I.R.S., get rid of our nightmarish tax code, and create an oversight board composed entirely of citizens from outside of the I.R.S. to keep watch over that agency until the date when it ceases to exist.

To carry out those objectives, I have introduced S. 1555, the Internal Revenue Service Oversight, Restructuring and Tax Code Elimination Act of 1997. This legislation establishes an oversight board composed of nine members, each of whom are from the private sector, and at least one of whom must be an owner or manager of a small business. This oversight board will be responsible for reviewing the policies and practices of the Internal Revenue Service.

Among the specific areas the board will oversee are the agency's auditing procedures and collections practices, as well as the agency's procurement policies for information technology. Procurement at the I.R.S. has resulted in outrageous waste and misuse of taxpayer funds, such as the decision to spend nearly $4 billion to develop a new computer system, which officials now concede has been a complete failure.

Creating an oversight board to rein in the IRS is just the first step. S. 1555 also calls for the tax code to be terminated as of December 31, 2000, with exceptions for Social Security and Railroad Retirement.

My bill sets out several guidelines for the structure of a new tax code. The new code should apply a low rate to all Americans; require a supermajority of both Houses of Congress to raise taxes; provide tax relief for working Americans; protect the rights of taxpayers and reduce tax collection abuses; eliminate the bias against savings and investment; promote economic growth and job creation; encourage rather than penalize marriage and families; protect the integrity of Social Security and Medicare; and provide for a taxpayer-friendly collections process to replace the Internal Revenue Service.

Mr. President, it is time to get rid of the I.R.S. and the massive and incomprehensible tax code in favor of a fairer, simpler system. I firmly believe that we will never be rid of our tax code until Congress sets out a specific deadline for its elimination. That is what my bill does. We should begin the national debate now over the form a new tax code should take. I have laid out a series of guidelines in this legislation for the new tax code. Without the current tax code, there is no need for the I.R.S., and it is my view that this agency is too entrenched in its bureaucratic ways to be reformed. It should simply be eliminated. Until the I.R.S. is gone, an oversight board is badly needed to protect the interests of the taxpayers, and act as a watchdog over this unaccountable agency. I urge my colleagues to support this legislation.

By Mr. LEAHY:

S. 1556. A bill to improve child nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE CHILD NUTRITION INITIATIVES ACT

Mr. LEAHY. Mr. President, as the ranking member of the nutrition subcommittee, I want to make very clear that I am looking forward to working with the chairman of the Agriculture, Nutrition and Forestry Committee, Senator LUGAR, with the ranking member, Senator HARKIN, and with the chairman of the nutrition subcommittee, Senator MCCONNELL, on the child nutrition reauthorization bill next year.

When I was chairman of that committee, and continuing under the helm of Senator LUGAR, the Agriculture Committee worked together in a bipartisan fashion on nutrition legislation.

I am proud of all the members of that committee who over the years worked together on improving nutrition programs for children. I also had the privilege of working with the former majority leader—Senator Bob Dole—on many child nutrition matters.

The bill that I am introducing today does not represent my effort on a reauthorization bill—I will work on that bill with members of the committee, including the three leadership Members mentioned above.

Rather, this bill indicates changes that should be enacted into law regardless of other actions the Congress might take regarding child nutrition reauthorization.

It includes child nutrition provisions that were included, with some modifications, in the Senate-passed research bill—which passed the Senate by unanimous consent.

Over the recess I intend to consult with nutrition leaders in Vermont, the Under Secretary for Food and Consumer Services, Shirley Watkins, Secretary Glickman, national nutrition advocates and local program directors to gather information for the reauthorization effort.

Also, I urge the President to include sufficient funding in his budget proposals to fund this bill as well as other nutrition initiatives which the Secretary and the Under Secretary for Food and Consumer Services are working to develop.

I must compliment Under Secretary Shirley Watkins for the great job she has done so far. She has taken strong command of an agency that was adrift. Also, I continue to appreciate Secretary Dan Glickman's leadership role in the administration regarding nutrition programs and the strong support of his chief of staff, Greg Frazier.

I note also that Senator TIM JOHNSON has introduced a school lunch program bill. I will carefully study that bill over the recess. I will also look at the study conducted by the Minnesota Department of Children, Families and Learning called Energizing the Classroom.

Over the years many Vermonters have provided me with outstanding advice and guidance on child nutrition issues.

I intend to work with Jo Busha who heads the Child Nutrition Programs for the Vermont Department of Education. She has done a remarkable job in promoting school-based nutrition programs and was recently commended by the Food Research and Action Center for her accomplishments. I was very pleased to work with the committee on a bill that set up the school breakfast startup grant program which has worked extremely well in Vermont. It provided thousands of dollars to Vermont schools to cover the one-time costs of setting up a breakfast program.

I look forward to receiving advice from Mary Carlson, president of the National Association of Farmers' Markets Nutrition Programs, on the WIC-Farmer's Market Program known as the Farm-to-Family program in Vermont.

This program has helped in greatly expanding the number of farmers markets in Vermont and helped low-income families provide their children with healthy foods.

My bill would assure funding for this program and permit other States to participate in the program, or to increase their participation levels.

The bill provides assured funding for programs like the Vermont Common Roots program of Food Works, a nonprofit educational organization in Vermont which has been praised by educators and administrators as an effective educational tool.

Robert Dostis has done an outstanding job as the executive director of the Vermont Campaign to End Childhood Hunger. He also deserves a great deal of credit regarding the effort to get more schools on the school breakfast program. He has recently written a ''Report on Childhood Hunger in Vermont: A Handbook for Action.''

He cites some startling statistics in this report. For example, he notes that about 8,000 Vermont children are receiving food from local Vermont food shelves—which is double the figure for 1990.

In addition, nearly 222,000 meals are being served yearly at two dozen community kitchens in Vermont—that is 21 percent more than in 1994.

I will be also working with Donna Bister, as I have for years, on issues related to the WIC program and with Alison Gardner who is the Public Health Nutrition Chief, for the Vermont Department of Health.

I want to extend a special thanks to Dr. Richard Narkewicz of Vermont who is a past president of the American Academy of Pediatrics. He recently visited me with his grandson Corey.

Most of all I want to thank the hundreds of volunteers who run Vermont's Food Shelves and Community Kitchens, and all of those helping out at Vermont's Community Action Agencies.

For many years I have watched the tremendous contributions made by the Vermont FoodBank in the fight against hunger. They have been a first line of defense against child hunger in Vermont and I look forward to working with their director, Deborah Flateman.

All of these Vermonters, and hundreds more who I have not mentioned, carry out the true Vermont tradition of extending a helping hand to neighbors in need.

My bill incorporates many ideas from Vermonters. I have often designed nutrition legislation based on ideas from State and local officials from around the Nation.

Since this bill is not a full reauthorization bill—which I will cosponsor at a later date with other members of the Committee—I have not automatically extended each expiration date in current law. I will certainly support such extensions as appropriate at a later date and will support many other improvements to the bill.

Section 101 is based on an idea provided to me by Joseph Keifer of the Vermont Food Works program. It provides modest Federal funding to help integrate food and nutrition projects with elementary school curricula for a few pilot tests of this provision.

Section 102 increases the reimbursement rates for the summer food service program to a level that should encourage strong participation. At the recommendation of the Vermont Campaign to End Childhood Hunger the bill also provides special funding to help defray the costs of transporting children to the food service locations. This additional financial support—of 75 cents per day for each child transported to and from school—is only applicable in very rural areas, as defined by USDA.

Vermont child care sponsors strongly recommended that I support funding for an additional meal supplement for children who are in a child care center for 8 hours or more. Section 103 of the bill does just that and thus helps working parents.

The bill provides for the eligibility of additional schools for the after school care meals program and expands funding for a program that provides meals to homeless preschool children in emergency shelters.

Title II of the bill creates a grant program to assist schools and others to establish or expand a school breakfast program, or a summer food service program. $5 million, per year, in mandatory funding would be made available for this effort.

The school breakfast start up program in Vermont, before it was terminated by Congress, was a remarkable success in part due to the hard work of Jo Busha, Bob Dostis, the Vermont School Food Service Association, and many others.

Also under Title II of the bill, the WIC Farmers' Market Program is provided guaranteed funding. I have worked on this program for a number of years with Mary Carlson of Vermont. Mary is now the president of the association that represents State farmers' market nutrition programs such as the WIC Farmers' Market Program. Making this tremendous program mandatory will assure funding and avoid any appearance of being in competition with the WIC program for appropriated funds.

The bill also sets forth a sense of the Congress that the WIC program should be fully funded, now and forever, for all eligible applicants nationwide. I know that reaching this goal has taken a long time. I appreciate all the help that Donna Bister, the Vermont WIC Director, and many other Vermonters, as well as Bread for the World at the national level, have provided on the WIC program. David Beckmann and Barbara Howell of Bread for the World have worked for years toward this goal.

Finally, I have heard from Alison Gardner about the problems she is having with funding for the Nutrition, Education and Training Program. Congress made that program mandatory but then changed its status back to a program subject to appropriations. My bill will provide $10 million a year for that program and provide a State minimum grant of $85,000 per year.

I want to emphasize again that my bill represents some important child nutrition initiatives. I hope they will all be included in the reauthorization bill. I look forward to working with Senators LUGAR, HARKIN, MCCONNELL and all the other members of the Agriculture, Nutrition and Forestry Committee on this effort just as we worked together on the child nutrition provisions in the Senate-passed research bill.

I also look forward to working with all the Members of the House of Representatives Education and the Workforce Committee. I know they have a keen interest in protecting children and I have enjoyed working in the past with Chairman Goodling and with the ranking minority member Mr. BILL CLAY.

The last reauthorization bill passed both the Senate and the House of Representatives by unanimous consent. This shows how well the Congress can work together when the interests of children are at stake.

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. 1556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Child Nutrition Initiatives Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—NATIONAL SCHOOL LUNCH ACT
Sec. 101. Grants to integrate food and nutrition projects with elementary school curricula.
Sec. 102. Summer food service program for children.
Sec. 103. Child and adult care food program.
Sec. 104. Meal supplements for children in afterschool care.
Sec. 105. Homeless children nutrition program.
Sec. 106. Boarder baby and other pilot projects.
Sec. 107. Information clearinghouse.
TITLE II—CHILD NUTRITION ACT OF 1966
Sec. 201. Area grant program.
Sec. 202. Special supplemental nutrition program for women, infants, and children.
Sec. 203. Nutrition education and training.

TITLE I—NATIONAL SCHOOL LUNCH ACT

SEC. 101. GRANTS TO INTEGRATE FOOD AND NUTRITION PROJECTS WITH ELEMENTARY SCHOOL CURRICULA.

Section 12(m) of the National School Lunch Act (42 U.S.C. 1760(m)) is amended—

(1) by striking ''(m)(1) The'' and inserting the following:

''(m) GRANTS TO INTEGRATE FOOD AND NUTRITION PROJECTS WITH ELEMENTARY SCHOOL CURRICULA.—

''(1) IN GENERAL.—Subject to paragraph (5), the'';

(2) by striking paragraph (3) and inserting the following:

''(3) AMOUNT OF GRANTS.—Subject to paragraph (5), the Secretary shall make grants to each of the 3 private organizations or institutions selected under this subsection in amounts of not less than $60,000, nor more than $130,000, for each of fiscal years 1999 through 2001.''; and

(3) by striking paragraph (5) and inserting the following:

''(5) PAYMENTS.—

''(A) IN GENERAL.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this subsection

$300,000 for each of fiscal years 1999 through 2001.

''(B) ENTITLEMENT TO FUNDS.—The Secretary shall be entitled to receive the funds made available under subparagraph (A) and shall accept the funds.

''(C) INSUFFICIENT NUMBER OF APPLICANTS.—The Secretary may expend less than the amount described in subparagraph (A) for a fiscal year to the extent that there is an insufficient number of suitable applicants for grants under this subsection for the fiscal year.

''(D) UNOBLIGATED FUNDS.—Of any funds that are made available, but not obligated, for a fiscal year under this paragraph—

''(i) 25 percent shall remain available until expended; and

''(ii) the remainder shall be returned to the general fund of the Treasury.''.

SEC. 102. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) PURPOSES.—Section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)) is amended in the first sentence by striking ''initiate and maintain'' and inserting ''initiate, maintain, and expand''.

(b) DEFINITION OF AREAS IN WHICH POOR ECONOMIC CONDITIONS EXIST.—Section 13(a)(1)(C) of the National School Lunch Act (42 U.S.C. 1761(a)(1)(C)) is amended by striking ''50 percent'' and inserting ''40 percent''.

(c) COMMERCIAL VENDORS.—Section 13(a)(2) of the National School Lunch Act (42 U.S.C. 1761(a)(2)) is amended in the first sentence—

(1) by striking ''institution or'' and inserting ''institution,''; and

(2) by inserting before the period at the end the following: '', or by commercial vendors''.

(d) NUMBER OF PRIVATE NONPROFIT ORGANIZATIONS IN A RURAL AREA.—Section 13(a)(7)(B)(i)(II) of the National School Lunch Act (42 U.S.C. 1761(a)(7)(B)(i)(II)) is amended by striking ''20 sites'' and inserting ''25 sites''.

(e) SECOND HELPINGS.—Section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)) is amended by adding at the end the following:

''(8) SECOND HELPINGS.—In carrying out this section, the Secretary shall issue regulations that provide an allowance for a second helping of up to 5 percent of the quantity of the first helping served.''.

(f) PAYMENTS.—Section 13(b)(1) of the National School Lunch Act (42 U.S.C. 1761(b)(1)) is amended—

(1) in subparagraph (B)(i), by striking ''$1.97'' and inserting ''$2.23'';

(2) in subparagraph (C), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (D)''; and

(3) by adding at the end the following:

''(D) REIMBURSEMENT FOR TRANSPORTATION.—

''(i) IN GENERAL.—The Secretary shall provide an additional reimbursement to each eligible service institution located in a very rural area (as defined by the Secretary) for the cost of transporting each child to and from a feeding site for children who are brought to the site by the service institution or for whom transportation is arranged by the service institution.

''(ii) AMOUNT.—Subject to clause (iii), the amount of reimbursement provided to a service institution under this subparagraph may not exceed the lesser of—

''(I) 75 cents per day for each child transported to and from a feeding site; or

''(II) the actual cost of transporting children to, and home from, a feeding site.

''(iii) ADJUSTMENTS.—The amounts specified in clause (ii) shall be adjusted in accordance with subparagraph (C).''.

(g) NUMBER OF MEALS AND SUPPLEMENTS.—Section 13(b)(2) of the National School Lunch Act (42 U.S.C. 1761(b)(2)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking ''(2) Any service'' and inserting the following:

''(2) MEALS AND SUPPLEMENTS.—

''(A) IN GENERAL.—Any service'';

(3) by striking ''3 meals, or 2 meals and 1 supplement,'' and inserting ''4 meals''; and

(4) by adding at the end the following:

''(B) CAMPS AND MIGRANT PROGRAMS.—A camp or migrant program may serve a breakfast, a lunch, a supper, and meal supplements.''.

(h) EXTENSION.—Section 13(q) of the National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking ''1998'' and inserting ''2003''.

SEC. 103. CHILD AND ADULT CARE FOOD PROGRAM.

(a) EXTENSIONS.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in subsection (c)(6)(B), by striking ''1997'' and inserting ''2003'';

(2) in subsection (f)(3)(D), by striking ''fiscal year 1997'' each place it appears and inserting ''each of fiscal years 1997 through 2003''; and

(3) in subsection (p), by striking ''1998'' each place it appears and inserting ''2003''.

(b) NUMBER OF MEALS AND SUPPLEMENTS.—Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking ''2 meals and 1 supplement'' and inserting ''2 meals and 2 supplements, or 3 meals and 1 supplement,''.''.

(c) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3)(D)(ii)(I) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(D)(ii)(I)) is amended by striking ''$30,000'' and inserting ''$45,000''.

SEC. 104. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

Section 17A(a)(2)(C) of the National School Lunch Act (42 U.S.C. 1766a(a)(2)(C))) is amended by striking ''on May 15, 1989''.

SEC. 105. HOMELESS CHILDREN NUTRITION PROGRAM.

Section 17B(g)(1) of the National School Lunch Act (42 U.S.C. 1766b(g)(1)) is amended in the first sentence by striking ''and $3,700,000 for fiscal year 1999'' and inserting ''$3,700,000 for fiscal year 1999, $4,000,000 for fiscal year 2000, $4,100,000 for fiscal year 2001, and $4,200,000 for fiscal year 2002''.

SEC. 106. BOARDER BABY AND OTHER PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended—

(1) in subsection (c)—

(A) by striking ''1998'' each place it appears and inserting ''2003''; and

(B) in paragraph (3)(A)—

(i) in clause (v), by striking ''and'' at the end; and

(ii) by adding at the end the following:

''(vii) salaries and expenses of support staff, including management, medical, nursing, janitorial, and other support staff; and'';

(2) in subsection (e)(5), by striking ''and 1998'' and inserting ''through 2003'';

(3) in subsections (g)(5) and (h)(5), by striking ''1997'' each place it appears and inserting ''2003''; and

(4) in subsection (i)(8), by striking ''1998'' and inserting ''2003''.

SEC. 107. INFORMATION CLEARINGHOUSE.

Section 26(d) of the National School Lunch Act (42 U.S.C. 1769g(d)) is amended in the first sentence by striking ''$100,000 for fiscal year 1998'' and inserting ''$185,000 for each of fiscal years 1998 through 2003''.

TITLE II—CHILD NUTRITION ACT OF 1966

SEC. 201. AREA GRANT 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) AREA GRANT PROGRAM.—

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

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

''(i) attended by children, a significant percentage of whom—

''(I) are members of low-income families, as determined by the Secretary; or

''(II) live in rural areas and have unmet needs for initiation or expansion of a school breakfast or summer food service program for children; and

''(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) ESTABLISHMENT.—The Secretary shall establish a program under this subsection to be known as the 'Area Grant Program' (referred to in this subsection as the 'Program') to assist eligible schools and service institutions through grants to initiate or expand programs under the school breakfast program and the summer food service program for children.

''(3) PAYMENTS.—

''(A) IN GENERAL.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this subsection $5,000,000 for fiscal year 1998 and each fiscal year thereafter.

''(B) ENTITLEMENT TO FUNDS.—The Secretary shall be entitled to receive the funds made available under subparagraph (A) and shall accept the funds.

''(C) USE OF FUNDS.—The Secretary shall use the funds made available under subparagraph (A) to make payments under the Program—

''(i) in the case of the school breakfast program, to school food authorities for eligible schools; and

''(ii) in the case of the summer food service program for children, to service institutions.

''(D) INSUFFICIENT NUMBER OF APPLICANTS.—The Secretary may expend less than the amount described in subparagraph (A) for a fiscal year to the extent that there is an insufficient number of suitable applicants to initiate or expand programs under this subsection for the fiscal year.

''(4) PRIORITY.—The Secretary shall make payments under the Program on a competitive basis and in the following order of priority (subject to the other provisions of this subsection) to:

''(A) School food authorities for 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.

''(B) 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.

''(5) ADDITIONAL PAYMENTS.—Payments under the Program shall be in addition to payments under subsection (b) of this section and section 13 of the National School Lunch Act (42 U.S.C. 1761).

''(6) PREFERENCES.—Consistent with paragraph (4), in making payments under the Program for any fiscal year to initiate or expand school breakfast programs or summer food service programs for children, the Secretary shall provide a preference to a school food authority for an eligible school or service institution that—

''(A) in the case of a summer food service program for children, is a public or private nonprofit school food authority;

''(B) has significant public or private resources that will be used to carry out the initiation or expansion of the programs during the year;

''(C) serves an unmet need among low-income children, as determined by the Secretary;

''(D) is not operating a school breakfast program or summer food service program for children, as appropriate; or

''(E) is located in a rural area, as determined by the Secretary.

''(7) RECOVERY AND REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other school food authorities for eligible schools or service institutions any amounts under the Program that are not expended within a reasonable period (as determined by the Secretary).

''(8) MAINTENANCE OF EFFORT.—Expenditures of funds from State, local, and private 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 the Program.''.

SEC. 202. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) EXTENSIONS.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended in subsections (g)(1), (h)(2)(A), and (h)(10)(A) by striking ''1998'' each place it appears and inserting ''2003''.

(b) SENSE OF CONGRESS ON FULL FUNDING FOR WIC.—It is the sense of Congress that the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) should be fully funded for fiscal year 1998 and each subsequent fiscal year so that all eligible participants for the program will be permitted to participate at the full level of participation for individuals in their category, in accordance with regulations issued by the Secretary of Agriculture.

(c) FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)) is amended—

(1) in paragraph (1), by striking ''(m)(1) Subject'' and all that follows through ''the Secretary'' and inserting the following:

''(m) FARMERS' MARKET NUTRITION PROGRAM.—

''(1) IN GENERAL.—The Secretary'';

(2) in paragraph (6)(B)—

(A) by striking ''(B)(i) Subject to the availability of appropriations, if'' and inserting the following:

''(B) MINIMUM AMOUNT.—If''; and

(B) by striking clause (ii); and

(3) in paragraph (9), by striking ''(9)(A)'' and all that follows through the end of subparagraph (A) and inserting the following:

''(9) FUNDING.—

''(A) PAYMENTS.—

''(i) IN GENERAL.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this subsection $15,000,000 for fiscal year 1999, $19,000,000 for fiscal year 2000, and $24,000,000 for fiscal year 2001, $30,000,000 for fiscal year 2002 and $37,000,000 for fiscal year 2003. Such funds shall remain available for this program until expended.

''(ii) ENTITLEMENT TO FUNDS.—The Secretary shall be entitled to receive the funds made available under subparagraph (A) and shall accept the funds.''.

SEC. 203. NUTRITION EDUCATION AND TRAINING.

Section 19(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)) is amended—

(1) in paragraph (2)—

(A) in the first sentence of subparagraph (A), by inserting ''and each succeeding fiscal year'' after ''1996''; and

(B) by striking subparagraph (B) and inserting the following:

''(B) MINIMUM AMOUNT.—The minimum amount of a grant provided to a State for a fiscal year under this section shall be $85,000.'';

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraph (3) and (4), respectively.

By Mr. TORRICELLI (for himself, Mr. AKAKA, Mr. KERRY, and Mrs. FEINSTEIN):

S. 1557. A bill to end the use of steel jaw leghold traps on animals in the United States; to the Committee on Environment and Public Works.

THE STEEL JAW LEGHOLD TRAP ACT OF 1997

Mr. TORRICELLI. Mr. President, today, Senators, AKAKA, FEINSTEIN, KERRY, and I rise to introduce legislation to end the use of the steel jaw leghold trap. I rise to draw this country's attention to the many liabilities of this outdated device and ask for my colleagues support in ending its use.

This important and timely issue now takes on added importance as the European Union proposes to ban the importation of U.S. fur caught with this class of trap. By ending the use of the leghold trap within our borders, we will effectively set a humane standard for trapping, as well as protect the U.S. fur industry by keeping Europe's doors open to U.S. fur.

While this bill does not prohibit trapping, it does outlaw a particularly savage method of trapping by prohibiting the import or export of, and the interstate shipment of steel jaw leghold traps and articles of fur from animals caught in such traps.

The steel jaw leghold trap is a cruel and antiquated device for which many alternatives exist. The American Veterinary Medical Association and the American Animal Hospital Association have condemned leghold traps as inhumane and the majority of Americans oppose the use of this class of trap. Currently, 89 nations have banned these cruel devices, and have done so with broad-based public support. In addition, Colorado and Massachusetts have joined Rhode Island, Florida and my home State of New Jersey in banning the trap.

One quarter of all U.S. fur exports, $44 million, go to the European market. Of this $44 million, $21 million would be eliminated by the ban. This would clearly cause considerable economic damage to the U.S. fur industry, an important source of employment for many Americans. Since many Americans rely on trapping for their livelihood, it is imperative to find a solution which prevents the considerable damage that this ban would cause to our fur industry. It is important to note that since the steel-jaw leghold trap has been banned in Europe, alternatives have been provided to protect and maintain the European fur industry.

Our Nation would be far better served by ending the use of the archaic and inhumane steel jaw leghold trap. By doing so, we are not only setting a long-overdue humane standard for trapping, we are ensuring that the European market remains open to all American fur exports.

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. 1557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECLARATION OF POLICY.

It is the policy of the United States to end the needless maiming and suffering inflicted upon animals through the use of steel jaw leghold traps by prohibiting the import or export of, and the shipment in interstate commerce of, such traps and of articles of fur from animals that were trapped in such traps.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ARTICLE OF FUR.—The term ''article of fur'' means—

(A) any furskin, whether raw or tanned or dressed; or

(B) any article, however produced, that consists in whole or part of any furskin.

For purposes of subparagraph (A), the terms ''furskin'', ''raw'', and ''tanned or dressed'' have the same respective meanings as those terms have under headnote 1 of chapter 43 of the Harmonized Tariff Schedule of the United States.

(2) CUSTOMS LAWS OF THE UNITED STATES.—The term ''customs laws of the United States'' means any law enforced or administered by the Customs Service.

(3) INTERSTATE COMMERCE.—The term ''interstate commerce'' has the same meaning as given such term in section 10 of title 18, United States Code.

(4) IMPORT.—The term ''import'' means to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an entry into the customs territory of the United States.

(5) PERSON.—The term ''person'' includes any individual, partnership, association, corporation, trust, or any officer, employee, agent, department, or instrumentality of the Federal Government or of any State or political subdivision thereof, or any other entity subject to the jurisdiction of the United States.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) STEEL JAW LEGHOLD TRAP.—The term ''steel jaw leghold trap'' means any spring-powered pan- or sear-activated device with two opposing steel jaws which is designed to capture an animal by snapping closed upon the animal's limb or part thereof.

SEC. 3. PROHIBITED ACTS AND PENALTIES.

(a) OFFENSES.—It is unlawful for any person knowingly—

(1) to import, export, ship, or receive in interstate commerce an article of fur if any part of the article of fur is derived from an animal that was trapped in a steel jaw leghold trap;

(2) to import, export, deliver, carry, transport, or ship by any means whatever, in interstate commerce, any steel jaw leghold trap; or

(3) to sell, receive, acquire, or purchase any steel jaw leghold trap that was delivered, carried, transported, or shipped in contravention of paragraph (2).

(b) PENALTIES.—A person who violates subsection (a), in addition to any other penalty that may be imposed—

(1) for the first such violation, shall be guilty of an infraction punishable under title 18, United States Code; and

(2) for each subsequent violation, shall be imprisoned not more than 2 years, fined under title 18, United States Code, or both.

SEC. 4. REWARDS.

The Secretary shall pay, to any person who furnishes information which leads to a conviction of a violation of any provision of this Act or any regulation issued thereunder, an amount equal to one half of the fine paid pursuant to the conviction. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his or her official duties is not eligible for payment under this section.

SEC. 5. ENFORCEMENT.

(a) IN GENERAL.—Except with respect to violations of this Act to which subsection (b) applies, the provisions of this Act and any regulations issued pursuant thereto shall be enforced by the Secretary, who may use by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or of any State agency for purposes of enforcing this Act.

(b) EXPORT AND IMPORT VIOLATIONS.—

(1) IMPORT VIOLATIONS.—The importation of articles in contravention of section 3 shall be treated as a violation of the customs laws of the United States, and the provisions of law relating to violations of the customs laws shall apply thereto.

(2) EXPORT VIOLATIONS.—The provisions of the Export Administration Act of 1979 (including the penalty provisions) (50 U.S.C. App. 2401 et seq.) shall apply for purposes of enforcing the prohibition relating to the export of articles described in section 3.

(c) JUDICIAL PROCESS.—The district courts of the United States may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

(d) ENFORCEMENT AUTHORITIES.—Any individual having authority to enforce this Act (except with respect to violations to which subsection (b) applies), may, in exercising such authority—

(1) detain for inspection, search, and seize any package, crate, or other container, including its contents, and all accompanying documents, if such individual has reasonable cause to suspect that in such package, crate, or other container are articles with respect to which a violation of this Act (except with respect to violations to which subsection (b) applies) has occurred, is occurring, or is about to occur;

(2) make arrests without a warrant for any violation of this Act (except with respect to violations to which subsection (b) applies) committed in his or her presence or view or if the individual has probable cause to believe that the person to be arrested has committed or is committing such a violation; and

(3) execute and serve any arrest warrant, search warrant, or other warrant or criminal process issued by any judge or magistrate of any court of competent jurisdiction for enforcement of this Act (except with respect to violations to which subsection (b) applies).

(e) FORFEITURE.—

(1) IN GENERAL.—Except as provided in paragraph (3), any article of fur or steel jaw leghold trap taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, or shipped in violation of this Act shall be subject to forfeiture to the United States.

(2) APPLICABLE LAW.—The provisions of law relating to—

(A) the seizure, summary and judicial forfeiture, and condemnation of property for violations of the customs laws,

(B) the disposition of such property or the proceeds from the sale thereof,

(C) the remission or mitigation of such forfeitures, and

(D) the compromise of claims,

shall apply to seizures and forfeitures under this subsection, except that the duties performed by a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws of the United States may be performed with respect to seizures and forfeitures of property under this subsection by the Secretary or such officers and employees as the Secretary may designate.

(3) EXCEPTION.—The provisions of the Export Administration Act of 1979 shall apply with respect to the seizure and forfeiture of any article of fur or steel jaw leghold trap exported in violation of this Act and the customs laws of the United States shall apply with respect to the seizure and forfeiture of any such article or trap imported in violation of this Act.

(f) INJUNCTIONS.—The Attorney General of the United States may seek to enjoin any person who is alleged to be in violation of any provision of this Act.

(g) COOPERATION.—The Secretary of Commerce, the Secretary of the Treasury, and the head of any other department or agency with enforcement responsibilities under this Act shall cooperate with the Secretary in ensuring that this Act is enforced in the most effective and efficient manner.

SEC. 6. REGULATIONS.

The Secretary shall prescribe such regulations as are necessary to carry out this Act.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on the date that is 1 year after the date of enactment.

By Mr. D'AMATO:

S. 1558. A bill to amend the Harmonized Tariff Schedule of the United States with respect to shadow mask steel; to the Committee on Finance.

THE SHADOW MASK STEEL HARMONIZED TARIFF SCHEDULE AMENDMENT ACT OF 1997

Mr. D'AMATO. Mr. President, I rise today to introduce legislation to amend the Harmonized Tariff Schedule of the United States with respect to shadow mask steel. Shadow mask steel, a vital component of color television picture tubes and computer video monitors, is used to produce ''shadow masks'' which prevent image distortion on the viewing screens of televisions and computer video monitors. Unfortunately, neither shadow mask steel, nor any viable substitute, is produced within the United States. Therefore, United States shadow mask producers must import this product from steel producers in Japan and Germany.

Domestic shadow mask production faces a difficult challenge to stay competitive in today's shadow mask market. Competition from foreign shadow masks is increasing as foreign manufacturers aggressively pursue the U.S. market. In addition, color picture tube and computer video monitor manufacturers are increasing their efforts to reduce production costs due to increased competition in the television and computer markets.

These factors reinforce the vital need for competitively-priced component materials, such as shadow masks. Eliminating the duty on shadow mask steel, a product that is already subject to a gradual tariff elimination schedule, would be an important step toward enabling domestic manufacturers to remain competitive in the global market.

Major U.S. television picture tube and computer video monitor manufacturers that employ thousands of workers throughout the United States rely on a consistent supply of domestically-produced shadow masks. If such companies were unable to count on such a supply, we run the risk of supplanting domestic production of this product with imported shadow masks from foreign competitors, resulting in higher costs and delivery uncertainties associated with purchasing shadow mask imports.

Such increased costs and uncertainty would certainly result in reduced competitiveness of U.S. television picture tube and computer video monitor manufacturers vis—vis foreign manufacturers. Reduced competitiveness could lead to the transfer of existing U.S. manufacturing operations abroad, and/or the closing of U.S. facilities, resulting in the loss of thousands of actual and potential U.S. jobs in the television and computer manufacturing industries.

By Mr. FAIRCLOTH:

S. 1560. A bill to require the Federal banking agencies to make certain certifications to Congress regarding new accounting standards for derivatives before they become effective; to the Committee on Banking, Housing, and Urban Affairs.

THE ACCURATE ACCOUNTING STANDARDS CERTIFICATION ACT OF 1997

Mr. FAIRCLOTH. Mr. President, several times during this session, the Securities Subcommittee of the Senate Banking Committee has held hearings on the issue of the Financial Accounting Standards Board (FASB) accounting standards for derivatives and other instruments.

The hearings have demonstrated that there is great concern in the banking industry, and virtually every industry, about the FASB standards as they are presently written.

In particular, there are concerns that the FASB will finalize these standards

by the end of this year, without re-exposing its draft for further public comment. FASB has received hundreds of comment letters expressing concern about the new standards. Yet, the comments appear to go unheeded. In particular, there is concern in the banking industry that the standards are not taking into account the unique nature of banks. Even Alan Greenspan has taken the unusual step of expressing his concern to the FASB.

The Chairman of the Federal Reserve Board of Governors said in his letter that ''FASB's planned approach would not improve the financial reporting of derivatives activities and would constrain prudent risk management practices.''

Mr. President, I am a strong supporter of Generally Accepted Accounting Princples. I strongly believe that these standards should be set by the private sector. I am concerned, however, that the FASB, a private organization, is working too closely with the SEC, and therefore, is ignoring the concerns raised by bank regulators. In effect, this is not so much a dispute of a private body defying the wishes of an industry—but it is a dispute between two parts of our Government over how best to proceed on accounting for risk on the balance sheet. The FASB appears to be ignoring the concerns of the bank regulators, and by doing so, needlessly complicating disclosure to investors. Investors and analysts right now are fully capable of reviewing the balance sheets of depository institutions and determining who is well run and who is not.

The Securities Subcommittee issued a report this year in which it stated that ''by focusing on derivatives risk exposure in isolation from the risk faced by companies, (the FASB proposals) are prone to present investors a distorted and misleading picture of company conditions and activities.''

In my view, the new standards will throw a wrench into the present accounting rules that will only serve to confuse investors. It is highly ironic that financial institutions, the principal users of accounting information in order to make credit decisions, find the new standards confusing and cumbersome.

For this reason I feel compelled to introduce legislation that would provide the banking regulatory agencies with the authority to reject the standards if they find that the new standards will not accurately reflect assets, liabilities and earnings. Further, the regulators could refuse to adopt the standards if the new rules would serve to diminish the use of the risk management techniques, thus, actually reducing safety and soundness in the operation of an insured depository institution.

I think this is an appropriate solution to this problem. I have great faith that the banking regulators, the primary users of financial information from banks, can make the best determination if these standards are appropriate. Thank you Mr. President.

By Mr. WARNER:

S. 1561. A bill to reform the conduct of Federal elections; to the Committee on Rules and Administration.

THE CONSTITUTIONAL AND EFFECTIVE REFORM OF CAMPAIGNS ACT

Mr. WARNER. Mr. President, today I introduce the Constitutional and Effective Reform of Campaigns Act, or ''CERCA''. This legislation is the product of 2 years of hearings in the Rules Committee, discussions with numerous experts, party officials, and candidates, and nearly two decades of participating in campaigns and campaign finance debates in the Senate. Many of the proposals in this bill have been made in some form by several of my Senate colleagues and by Members of the House, and I readily acknowledge drawing on their expertise. Most particularly, the important discussions during the meetings of this year's task force headed by Senator NICKLES, at the request of Majority Leader LOTT, were invaluable.

This legislation offers an opportunity for bipartisan support. It is a good faith effort to strike a middle ground between those who believe public financing of campaigns is the solution, and those who believe the solution is to remove current regulations. It offers a package of proposals which realistically can be achieved with bipartisan support and meet the desire of the majority of Americans who believe that our present system can be reformed. In my judgment, we will not succeed with any measure of campaign reform in this complicated field without a bipartisan consensus.

In drafting this legislation, I began with four premises. First, all provisions had to be consistent with the First Amendment: Congress would be acting in bad faith to adopt provisions which have a likelihood of being struck down by the federal courts. Second, I oppose public financing and mandating ''free'' or reduced-cost media time which in my mind is neither free nor a good policy idea. Why should seekers of federal office get free time, while candidates for state office or local office—from governors to local sheriffs—do not receive comparable free benefits? Such an inequity and imbalance will breed friction between federal and state office seekers. Third, I believe we should try to increase the role of citizens and the political parties. Fourth, any framework of campaign reform legislation must respect and protect the constitutional right of individuals, groups, and organizations to participate in advocacy concerning political issues.

This bill is designed to be a ''bilateral disarmament'' on the tough issues of soft money and union dues: each side must give up equivalent ground. The Republicans should give ground by placing a cap on soft money which has tended to favor our side. And Democrats should give ground by allowing union members to decide voluntarily for themselves whether to contribute the portion of dues which goes to political contributions or activities.

Specifically, on the issue of soft money, no reform can be considered true reform without placing limits on the corporate and union donations to the national political parties. This bill places a $100,000 cap on such donations. While this provision addresses the public's legitimate concern over the propriety of these large donations, it allows the political parties sufficient funds to maintain their headquarters and conduct their grassroots efforts. In addition, the current limits on ''hard'' contributions must be updated. The ability of citizens to contribute voluntarily to a wide range of candidates and to their parties is fundamental.

At the same time, the practice of mandatory union dues going to partisan politics without union members' consent must end: it is counter to all the political freedoms that make America a true democracy. The concept of ''paycheck protection'' must be included in any campaign finance reform, so that these deductions are voluntary, whether these dues fund direct contributions to candidates or parties, or pay for undisclosed spending on phone banks, get-out-the-vote efforts, literature, and television ads.

Under this legislation, unions would be required to obtain advance, written consent before deducting money for political activities from union members' paychecks. The present state of the law requires most union workers to give up their rights to participate in the union if they seek refunds of that portion of dues going to politics. In addition, this section would strengthen the reporting requirements for unions engaged in political activities and enhance an aggrieved union member's right to challenge a union's determination of the portion of dues going to political activities.

In the Senate debates thus far, there has been much discussion about whether corporations should be required to obtain shareholder approval to make political contributions. This is an issue which warrants consideration. My proposal not only limits these corporate and union contributions to $100,000, it also includes a requirement that companies disclose their donations to federal political parties in their annual reports. And under current policies of the Securities and Exchange Commission, shareholders have the same rights to make recommendations to boards of directors on the propriety of political donations as they do on any business issue related to the company.

In addition, the SEC is in the process of making it easier for shareholders to raise questions related to social policy matters at annual meetings. I am monitoring how these changes are implemented: if they are insufficient to guarantee adequate rights to shareholders, I will consider amending my bill to protect these rights.

As an aside, I reject the notion that the status of union members is similar to those who belong to groups such as the National Rifle Association or the

Sierra Club. Nobody is compelled to join these types of organizations, and those that do, know or should know that their dues are going in part to political causes.

Furthermore, I considered including in this bill a narrowly-tailored disclosure requirement for individuals and groups spending large sums on public advertising affecting the public image of candidates during election seasons. However, in keeping with my first basic premise that reforms must pass the federal court test of constitutionality, I concluded that such a provision, in view of a long line of Supreme Court cases, likely would be declared unconstitutional, and thus I did not include the provision.

The McCain-Feingold bill was thoroughly debated in the Senate, and any objective observor of the Senate would agree that we are genuinely deadlocked. This body needs to move beyond the debate of McCain-Feingold. I hope that all Members will review my bill as an objective and pragmatic approach to current problems with our campaign system. I encourage other Members to come forward, as I have, with proposals which objectively represent pragmatic approaches to what can be achieved. I do not claim to have the only solution: those with other ideas should come forward.

In addition to the issues of soft money and union dues discussed above, nine other fundamental problems—all of which can be solved in a constitutional manner—are the most pressing. Here are these problems, in no particular order, and my proposed solutions:

Problem 1: Politicians spend too much time fundraising, at the expense of their legislative duties for incumbents, and, for both incumbents and challengers, at the expense of debating the issues with voters.

Solution: The current individual contribution limit of $1,000 has not been raised, or even indexed for inflation, for over 20 years. This fact requires that candidates must spend more and more time seeking more and more donors. The limit should be doubled, as well as indexed for inflation.

Problem 2: The influence of voters on campaigns has been diminished by the activities of political action committees and interest groups.

Solutions: I propose a $100 tax credit for contributions made by citizens, with incomes under specified levels, to Senate and House candidates in their states: this credit should spark an influx of small dollar contributions to balance the greater ability of citizens with higher incomes to participate.

In addition, the increased individual contribution limit should balance the activities of political action committees.

Problem 3: The influence of voters on campaigns has been diminished by contributions from those not eligible to vote.

Solution: If you are not eligible to vote, you should not contribute to campaigns. My bill would prohibit contributions by those ineligible to vote, including non-citizens, children, and persons under felony convictions. It also codifies current regulations concerning political donations by domestic subsidiaries of foreign companies.

Problem 4: Compared to incumbents, challengers face greater difficulties raising funds and communicating with voters, particularly at the outset of a campaign.

Solutions: This legislation will allow candidates to receive ''seed money'' contributions of up to $10,000 from individuals and political action committees. This provision should help get candidacies off the ground. The total amount of these ''seed money'' contributions could not exceed $100,000 for House candidates or $300,000 for Senate candidates. To meet the constitutional test, this provision would apply to both challengers and incumbents alike, but in the case of an incumbent with money carried over from a prior cycle, those funds would count against the seed money limit.

Second, Senate incumbents would be barred from using the franking privilege to send out mass mailings during the election year, rather than the sixty day ban in current law.

Problem 5: Candidates with personal wealth have a distinct advantage through their constitutional right to spend their own funds.

Solution: If a candidate spends more than $25,000 of his or her own money, the individual contribution limits would be raised to $10,000 so that candidates could raise money to counter that personal spending. Again, to meet constitutional review, this provision would apply to all candidates.

Problem 6: Current laws prohibiting fundraising activities on federal property are weak and insufficient.

Solution: The current ban on fundraising on federal property was written before the law created such terms as ''hard'' and ''soft'' money. This bill updates this law to require that no fundraising take place on federal property.

Problem 7: Reporting requirements and public access to disclosure statements are weak and inadequate.

Solutions: Under this proposal, the FEC would be required to post reports on the Internet for all to see, and to require that candidates, and groups making independent expenditures, make faster and more complete reports. In addition, registered lobbyists would be required to report their campaign contributions and those of their employer on their lobbyist disclosure reports.

Problem 8: The Federal Election Commission is in need of procedural and substantive reform.

Solutions: This legislation contains a number of procedural and substantive reforms of the FEC, including term limits for commissioners, and increases in penalties for serious violations.

Problem 9: The safeguards designed to protect the integrity of our elections are compromised by weak aspects of federal laws regulating voter registration and voting.

Solutions: The investigations of contested elections in Louisiana and California have shown significant weaknesses in federal laws designed to safeguard the registration and voting processes. The requirement that states allow registration by mail has undermined confidence that only qualified voters are registering to vote and only registering once: states should be allowed to decide whether to allow mail-in registrations. In addition, states should be allowed to require proof of citizenship when registering and proof of identification when voting: we require a photo ID to buy beer or cigarettes and can certainly allow states to protect the voting process by requiring a photo ID. Lastly, this bill would allow states to purge inactive voters and to allow state law to govern whether voters who move without re-registering should be allowed to vote.

These are the problems which I believe can be solved in a bipartisan fashion. Attached to this statement is a section by section review of the legislation. I look forward to working with my colleagues to enact meaningful campaign reform, by looking at reform beyond the usual soundbites and addressing the real problems with our present system of campaigns.

Mr. President, I ask unanimous consent that the text of the bill summary be printed in the RECORD.

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

CONSTITUTIONAL AND EFFECTIVE REFORM OF CAMPAIGNS ACT—SECTION-BY-SECTION

TITLE I—ENHANCEMENT OF CITIZEN INVOLVEMENT

Section 101.—Prohibits those ineligible to vote (non-citizens, minors, felons) from making contributions (''hard money'') or donations (''soft money''). Also bans foreign aliens making independent expenditures and codifies FEC regulations on foreign control of domestic donations.

Section 102.—Updates maximum individual contribution limit to $2000 per election (primary and general) and indexes both individual and PAC limits in the future.

Section 103.—Provides a tax credit up to $100 for contributions to in-state candidates for Senate and House for incomes up to $60,000 ($200 for joint filers up to $120,000).

TITLE II—LEVELING THE PLAYING FIELD FOR CANDIDATES

Section 201.—Seed money provision: Senate candidates may collect $300,000 and House candidates $100,000 (minus any funds carried over from a prior cycle) in contributions up to $10,000 from individuals and PAC's.

Section 202.—''Anti-millionaires'' provision: when one candidate spends over $25,000 of personal funds, a candidate may accept contributions up to $10,000 from individuals and PAC's up to the amount of personal spending minus a candidate's funds carried over from a prior cycle and own use of personal funds.

Section 203.—Bans use of Senate frank for mass mailings from January 1 to election day for incumbents seeking reelection.

TITLE III—VOLUNTARINESS OF POLITICAL CONTRIBUTIONS

Section 301.—Union dues provision: Labor organizations must obtain prior, written authorization for portion of dues or fees not to be used for representation: Establishes civil action for aggrieved employee. Requires employers to post notice of rights. Amends reporting statute to require better disclosure of expenses unrelated to representation.

Section 302.—Corporations must disclose soft money donations in annual reports.

TITLE IV—ELIMINATION OF CAMPAIGN EXCESSES

Section 410.—Adds soft money donations to present ban on fundraising on federal property and to other criminal statutes.

Section 402.—Hard money contributions or soft money donations over $500 which a political committee intends to return because of illegality must be transferred to the FEC and may be given to the Treasury as part of a civil or criminal action.

Section 403.—''Soft'' and ''hard'' money provisions. Soft money cap: no national party, congressional committee or senatorial committee shall accept donations from any source exceeding $100,000 per year. Hard money increases: limit raised from $25,000 to $50,000 per individual per year with no sublimit to party committees.

Section 404.—Codifies FEC regulations banning conversion of campaign funds to personal use.

TITLE V—ENHANCED DISCLOSURE

Section 501.—Additional reporting requirements for candidates: weekly reports for last month of general election, 24-hour disclosure of large contributions extended to 90 days before election, and end of ''best efforts'' waiver for failure to obtain occupation of contributors over $200.

Section 502.—FEC shall make reports filed available on the Internet.

Section 503.—24-hour disclosure of independent expenditures over $1,000 in last 20 days before election, and of those over $10,000 made anytime.

Section 504.—Registered lobbyists shall include their own contributions and soft money donations and those of their employers and the employers' coordinated PAC's on lobbyist disclosure forms.

TITLE VI—FEDERAL ELECTION COMMISSION REFORM

Section 601.—FEC shall develop and provide, at no cost, software to file reports, and shall issue regulations mandating electronic filing and allowing for filing by fax.

Section 602.—Limits commissioners to one term of eight years.

Section 603.—Increases penalties for knowing and willful violations to greater of $15,000 or 300 percent of the contribution or expenditure.

Section 604.—Requires that FEC create a schedule of penalties for minor reporting violations.

Section 605.—Establishes availability of oral arguments at FEC when requested and two commissioners agree. Also requires that FEC create index of Commission actions.

Section 606.—Changes reporting cycle for committees to election cycle rather than calendar year.

Section 607.—Classifies FEC general counsel and executive director as presidential appointments requiring Senate confirmation.

TITLE VII—IMPROVEMENTS TO NATIONAL VOTER REGISTRATION ACT

Section 701.—Repeals requirement that states allow registration by mail.

Section 702.—Requires that registrants for federal elections provide social security number and proof of citizenship.

Section 703.—Provides states the option of removing registrants from eligible list of federal voters who have not voted in two federal elections and did not respond to postcard.

Section 704.—Allows states to require photo ID at the polls.

Section 705.—Repeals requirement that states allow people to change their registration at the polls and still vote.

By Mr. BAUCUS:

S. 1562. A bill to authorize an exchange of land between the Secretary of Agriculture and Secretary of the Interior and Big Sky Lumber Co; to the Committee on Energy and Natural Resources.

THE GALLATIN RANGE CONSOLIDATION COMPLETION ACT OF 1997

Mr. BAUCUS. Mr. President, I rise today to introduce an important piece of legislation for Montana. This bill is titled ''the Gallatin Range Consolidation Completion Act of 1997.''

Mr. President, this legislation is similar to a bill introduced earlier today by my colleague from Montana. While I am glad he has at last staked out a public position in favor of this exchange, I believe his approach is too little, too early. So I am introducing a bill which more accurately reflects where discussions on this exchange have progressed since Senator BURNS' earlier involvement.

Completing the Gallatin Land Exchange is a top priority for me. The land considered in this legislation is key wildlife habitat and is among some of the most beautiful anywhere. When completed, this exchange will result in improved habitat and will improve recreation opportunities in the region. But, as with many land exchanges this will not be a simple process.

The company involved, Big Sky Lumber has been pursuing this matter for nearly 4 years. The Forest Service has collected public comment and has worked to see that concerns of all parties affected, the recreation interests, conservation groups, homeowners, and the business owners are all addressed. I have been working with these groups drafting legislation with the help of the Forest Service.

I was surprised that Senator BURNS introduced a draft bill today without notice. Contrary to an agreement among the State's congressional delegation that no bill be introduced until we reached agreement among ourselves and with other interested groups. The bill I am introducing today is an updated version of the earlier draft I gave to Senator BURNS for his review. I look forward to working with Senator BURNS and all interested parties to get this process back on track so that we can pass a fair and balanced bill soon after we convene the next session of Congress.

Over the next 2 months, my staff and I will be meeting with people about this exchange. My goal is to prepare a consensus bill that can be introduced by the entire Montana delegation when Congress convenes come January. Soon after the introduction of that consensus bill, I will hold public hearings in the state to hear what people think about our efforts. I am hopeful that in the future the entire Montana delegation will work together to protect the Taylor Fork and other important Montana lands in the Gallatin.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Gallatin Land Consolidation Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the land north of Yellowstone National Park possesses outstanding natural characteristics and wildlife habitats that would make the land a highly valuable addition to the National Forest System;

(2) it is in the interest of the United States for the Secretary of Agriculture to enter into an Option Agreement for the acquisition of land owned by Big Sky Lumber Co.; and

(3) it is in the interest of the United States to—

(A) establish a logical and effective ownership pattern for the Gallatin National Forest, substantially reducing long-term costs for taxpayers; and

(B) consolidate the Gallatin National Forest in a manner that will enable the public to have access to and enjoy the many recreational uses of the land.

SEC. 3. DEFINITIONS.

In this Act:

(1) BSL.—The term ''BSL'' means Big Sky Lumber Co., an Oregon joint venture, and its successors and assigns, and any other entities having a property interest in the BSL land.

(2) BSL LAND.—The term ''BSL land'' means the up to approximately 55,000 acres of land owned by BSL that is to be acquired by the Secretary of Agriculture, as depicted in Exhibit A to the Option Agreement.

(3) EXCHANGE AGREEMENT.—The term ''Exchange Agreement'' means the agreement entered into between BSL and the Secretary of Agriculture under section 4(e).

(4) OPTION AGREEMENT.—The term ''Option Agreement'' means the agreement dated _____ and entitled ''Option Agreement for the Acquisition of Big Sky Lumber Co. Lands Pursuant to the Gallatin Range Consolidation and Protection Act of 1993'' and the exhibits and maps attached to the agreement.

SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.

(a) IN GENERAL.—If BSL offers fee title to the BSL land, including mineral interests, that is acceptable to the United States—

(1) the Secretary of Agriculture shall accept a warranty deed to the BSL land;

(2) the Secretary of Agriculture shall convey to BSL, subject to valid existing rights and to such other terms, conditions, reservations, and exceptions as may be agreed on by the Secretary of Agriculture and BSL, fee title to up to approximately 25,000 acres of National Forest System land and appurtenances thereto as depicted in Exhibit B to the Option Agreement;

(3) the Secretary of Agriculture shall grant to BSL timber harvest rights to up to approximately 50,000,000 board feet of timber in accordance with subsection (c) and as described in Exhibit C to the Option Agreement;

(4) subject to availability of funds, the Secretary of Agriculture shall purchase land belonging to BSL in the Taylor Fork area, as depicted in Exhibit D, at a purchase price of not more than $6,500,000; and

(5) the Secretary of the Interior shall convey to BSL, by patent or otherwise, subject to valid existing rights and to such other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary of the Interior and BSL, fee title to approximately 1,860 acres of Bureau of Land Management land, as depicted in Exhibit B to the Option Agreement.

(b) VALUATION.—The property and other assets exchanged by BSL and the United States under subsection (a) shall be approximately equal in value, as determined by the Secretary of Agriculture.

(c) TIMBER HARVEST RIGHTS.—

(1) IN GENERAL.—The Secretary of Agriculture shall prepare, grant to BSL, and administer the timber harvest rights identified in Exhibit C to the Option Agreement, over a period of 5 consecutive years after the date of enactment of this Act.

(2) ENTIRE TIMBER SALE PROGRAM OF THE GALLATIN NATIONAL FOREST.—Timber harvest volume shall constitute the timber sale program for the Gallatin National Forest for that 5-year period.

(3) SUBSTITUTION.—If exceptional circumstances, such as natural catastrophe, changes in law or policy, or extraordinary environmental or financial circumstances prevent the Secretary of Agriculture from conveying the timber harvest rights identified in Exhibit C to the Option Agreement, the Secretary of Agriculture shall replace the value of the diminished harvest rights by—

(A) substituting equivalent timber harvest rights volume from the same market area;

(B) conveying national forest lands containing merchantable timber within the Gallatin National Forest; or

(C) making a payment from funds made available to the Secretary of Agriculture out of the Land and Water Conservation Fund.

(4) PROCEDURES.—

(A) IN GENERAL.—The following procedures shall apply to all national forest timber harvest rights identified for exchange under subsection (a):

(i) IDENTIFICATION OF TIMBER.—The Secretary of Agriculture shall designate Federal timber, as depicted in Exhibit C to the Option Agreement, for exchange to BSL.

(ii) HARVEST SCHEDULE.—The Secretary of Agriculture and BSL shall mutually develop and agree upon schedules for all national forest timber to be conveyed to BSL in the exchange.

(iii) OPEN MARKET.—All timber harvest rights granted to BSL in the exchange shall be offered for sale by BSL through the competitive bid process.

(iv) SMALL BUSINESS.—All timber harvest rights granted to BSL in the exchange shall be subject to compliance by BSL with Forest Service small business program procedures in effect as of the date of enactment of this Act, including contractual provisions for payment schedules, harvest schedules, and bonds.

(v) COMPLIANCE WITH OPTION AND EXCHANGE AGREEMENTS.—All timber harvest rights granted to BSL in the exchange and all timber harvested under the exchange shall comply with the terms of the Option Agreement and the Exchange Agreement.

(B) BINDING EFFECT.—The procedures under subparagraph (A) shall be binding on BSL and its assigns, contractors, and successors in interest.

(d) EXCHANGE AGREEMENT.—

(1) IN GENERAL.—The Secretary of Agriculture shall offer to enter into an Exchange Agreement with BSL that—

(A) describes the non-Federal and Federal land and interests in lands to be exchanged;

(B) identifies the terms, conditions, reservations, exceptions, and rights-of-way conveyances; and

(C) describes the terms for the harvest rights of timber granted under subsection (a)(3).

(2) CONSISTENCY.—The Exchange Agreement shall be consistent with this Act and the Option Agreement.

(3) SUBMISSION TO CONGRESS.—

(A) IN GENERAL.—On completion of the Exchange Agreement, the Secretary of Agriculture shall submit the Exchange Agreement to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and each member of the Montana congressional delegation; and

(B) DELAYED EFFECTIVENESS.—The Exchange Agreement shall not take effect until 30 days after the date on which the Exchange Agreement is submitted in accordance with subparagraph (A).

(e) RIGHTS-OF-WAY.—As part of the exchange under subsection (a)—

(1) the Secretary of Agriculture, under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), shall convey to BSL such easements in or other rights-of-way over National Forest System land as may be agreed to by the Secretary of Agriculture and BSL in the Exchange Agreement; and

(2) BSL shall convey to the United States such easements in or rights-of-way over land owned by BSL as may be agreed to by the Secretary of Agriculture and BSL in the Exchange Agreement.

(f) QUALITY OF TITLE.—

(1) DETERMINATION.—The Secretary of Agriculture shall review the title for the BSL land described in subsection (a) and, within 60 days after receipt of all applicable title documents from BSL, determine whether—

(A) the applicable title standards for Federal land acquisition have been satisfied or the quality of the title is otherwise acceptable to the Secretary of Agriculture;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary of Agriculture; and

(D) except as provided in section 8(b) (i)-(iii) of the Gallatin Range Consolidation and Protection Act of 1993 (107 Stat. 992), the title includes both the surface and subsurface estates without reservation or exception (except by the United States or the State of Montana, by patent) including—

(i) minerals, mineral rights, and mineral interests;

(ii) timber, timber rights, and timber interests;

(iii) water, water rights, and ditch conveyances; and

(iv) any other interest in the property.

(2) CONVEYANCE OF TITLE.—If the quality of title does not meet Federal standards or is otherwise determined to be unacceptable to the Secretary of Agriculture, the Secretary of Agriculture shall advise BSL regarding corrective actions necessary to make an affirmative determination under subparagraph (1).

(g) TIMING OF IMPLEMENTATION.—

(1) EXCHANGE AGREEMENT.—The Exchange Agreement shall be completed and executed not later than 60 days after the date of enactment of this Act.

(2) LAND-FOR-LAND EXCHANGE.—The Secretary of Agriculture shall accept the conveyance of land described in subsection (a) not later than 60 days after the Secretary of Agriculture has entered into the Exchange Agreement and made an affirmative determination of quality of title.

(3) LAND-FOR-TIMBER EXCHANGE.—The Secretary of Agriculture shall make the timber harvest rights described in subsection (a)(3) available over 5 consecutive years following the date of enactment of this Act. Specific procedures for execution of the harvest rights shall be specified in the Exchange Agreement.

(4) PURCHASE.—The Secretary of Agriculture shall complete the purchase of BSL land under subsection (a)(4) not later than 60 days after the date on which appropriated funds are made available and an affirmative determination of quality of title is made with respect to the BSL land.

SEC. 5. GENERAL PROVISIONS.

(a) MINOR CORRECTIONS.—

(1) IN GENERAL.—The Option Agreement and the Exchange Agreement shall be subject to such minor corrections as may be agreed to by the Secretary of Agriculture and BSL.

(2) NOTIFICATION.—The Secretary of Agriculture shall notify the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and each member of the Montana congressional delegation of any changes made pursuant to this subsection.

(b) PUBLIC AVAILABILITY.—The Option Agreement and Exchange Agreement shall be filed with the county clerks for Gallatin County, Park County, Madison County, and Granite County, Montana, and shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(c) STATUS OF LAND.—All land conveyed to the United States under this Act shall be added to and administered as part of the Gallatin National Forest and Deerlodge National Forest, as appropriate, in accordance with the Act of March 1, 1911 (commonly known as the ''Weeks Act'') (36 Stat. 961, chapter 186), and other laws (including regulations) pertaining to the National Forest System.

(d) IMPLEMENTATION.—The Secretary of Agriculture shall ensure that sufficient funds are made available to the Gallatin National Forest to carry out this Act.

By Mr. SMITH of Oregon (for himself, Mr. CRAIG, Mr. GORTON, Mr. ROBERTS and Mr. GRAMS):

S. 1563. A bill to amend the Immigration and Nationality Act to establish a 24-month pilot program permitting certain aliens to be admitted into the United States to provide temporary or seasonal agricultural services pursuant to a labor condition attestation; to the Committee on the Judiciary.

THE TEMPORARY AGRICULTURAL WORKER ACT OF 1997

Mr. SMITH of Oregon. Mr. President, I rise today to introduce the Temporary Agricultural Worker Act of 1997. I am joined by Senators CRAIG, GORTON, and ROBERTS. Our bill would create a streamlined guest worker pilot program which would allow for a reliable supply of legal, temporary, agricultural immigrant workers.

Mr. President, we are facing a crisis in agriculture—a crisis born of an inadequate labor supply, bureaucratic red tape, and burdensome regulations. For many years, farmers and nurserymen

have struggled to hire enough legal agricultural labor to harvest their produce and plants. This issue is not new to Congress. In the past, Congress has introduced legislation to address this urgency, but no workable solution has been implemented. The agriculture industry cannot survive without a reliable and legal supply of agricultural workers. The labor pool is tight and shortages are developing because of the limited domestic workers willing to work in agricultural fields.

The United States has historically been faced with a need to supplement the domestic work force, especially during peak harvesting periods. Since domestic workers prefer the security of full-time employment in year-round agriculture-related jobs, the shorter term seasonal jobs are often left unfilled by domestic workers. These domestic workers also prefer the working conditions involved in packing and processing jobs, which are generally performed indoors and do not involve the degree of strenuous physical labor associated with field work.

Labor intensive agriculture is one of the most rapidly growing areas of agricultural production in this country. Its growth not only creates many production and harvest jobs, but also creates many more jobs outside of agriculture. Approximately three off-farm jobs are directly dependent upon each on-farm job.

Currently, the H–2A program is the only legal temporary foreign agricultural worker program in the United States. This program is not practicable for the agriculture and horticulture industry because it is loaded with burdensome regulations, excessive paperwork, a bureaucratic certification process, untimely and inconsistent decision-making by the U.S. Department of Labor, and costly housing requirements. The H–2A program has also been very small in relation to the total number of U.S. farm workers. It is estimated that out of the 2.5 million farm workers in the United States, only 23,496 H–2A job certifications have been issued by the Department of Labor this year. In my State of Oregon, only 12 sheepshearers and 62 sheepherders are currently using the H–2A program.

It is time we address the shortfalls of current policy, and I believe that our bill is a meaningful step in that direction.

Mr. President, the bill we are introducing today would not replace or interfere with the current H–2A program, but would supplement the H–2A program with a two-year pilot program that examines an alternative approach to recruiting agricultural workers. The pilot program will be limited to 25,000 participants per fiscal year and would protect the domestic workers' rights and living standards.

Mr. President, let me briefly summarize the provisions of our bill.

The bill would establish a procedure by which an agricultural employer anticipating a shortage of temporary or seasonal agricultural workers may file a labor condition statement, or attestation, with the state employment security agency. The attestation would provide specified terms and conditions of employment in the occupation in which a shortage is anticipated. Employers would also be required to file a job order with the local job service and give preference to all qualified U.S. domestic workers.

The Department of Labor would enforce compliance with the labor condition requirements of the program and could impose back pay, civil monetary penalties, and debarment from the program for violators.

The alien guest workers are issued an identification card, which is counterfeit- and tamper-resistant, with biometric identifiers to assure program integrity.

A portion of the alien guest workers' earnings would be paid into an interest-bearing trust fund that would be rebated to the workers upon evidence of timely return to their home country. This would ensure that the aliens return to their countries of origin after the temporary job is completed. The alien guest workers could also be debarred from future participation in the program for violating the conditions of their admission.

Our bill is endorsed by over 50 agriculture-related associations including the National Council of Agricultural Employers, American Farm Bureau, and the American Association of Nurserymen.

I urge my fellow colleagues to join Senators CRAIG, GORTON, ROBERTS, and me as we introduce this important legislation today.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD.

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

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 ''Temporary Agricultural Worker Act of 1997''.

SEC. 2. NEW NONIMMIGRANT CATEGORY FOR PILOT PROGRAM TEMPORARY AND SEASONAL AGRICULTURAL WORKERS.

(a) ESTABLISHMENT OF NEW CLASSIFICATION.—Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)) is amended—

(1) by striking ''or (b)'' and inserting ''(b)''; and

(2) by adding at the end the following:

''or (c) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States pursuant to section 218A to perform such agricultural labor or services of a temporary or seasonal nature;''.

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking ''specified in this paragraph'' and inserting ''specified in this subparagraph (other than in clause (ii)(c))''.

SEC. 3. PILOT PROGRAM FOR ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROCESS USING ATTESTATION.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 218 the following:

''ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROGRAM

''SEC. 218A. (a) CONDITION FOR EMPLOYMENT OF PILOT PROGRAM ALIENS.—

''(1) ESTABLISHMENT OF PILOT PROGRAM; RESTRICTION OF ADMISSIONS TO PILOT PROGRAM PERIOD.—

''(A) IN GENERAL.—The Attorney General shall establish a pilot program for the admission of aliens classified as a nonimmigrant under section 101(a)(15)(H)(ii)(c) to perform temporary or seasonal agricultural services pursuant to a labor condition attestation filed by an employer or an association for the occupation in which the alien will be employed. No alien may be admitted or provided status as a pilot program alien under this section after the last day of the pilot program period specified in subparagraph (B).

''(B) PILOT PROGRAM PERIOD.—The pilot program period under this subparagraph is the 24-month period beginning 6 months after the date of the enactment of the Temporary Agricultural Worker Act of 1997.

''(2) ADMISSION OF ALIENS.—No alien may be admitted to the United States or provided status as a pilot program alien (as defined in subsection (n)(4)) unless—

''(A) the employment of the alien is covered by a currently valid labor condition attestation which—

''(i) is filed by the employer, or by an association on behalf of the employer, for the occupation in which the alien will be employed;

''(ii) has been accepted by the State employment security agency having jurisdiction over the area of intended employment; and

''(iii) states each of the items described in paragraph (2) and includes information identifying the employer or association and agricultural job opportunities involved;

''(B) the employer is not disqualified from employing pilot program aliens pursuant to subsection (h); and

''(C) the employer has not, during the pilot program period, been found by the Attorney General to have employed any aliens in violation of section 274A(a) or this section.

''(3) CONTENTS OF LABOR CONDITION ATTESTATION.—Each labor condition attestation filed by or on behalf of, an employer shall state the following:

''(A) WAGE RATE.—The employer will pay pilot program aliens and all other workers in the occupation not less than the prevailing wage for similarly employed workers in the area of employment, and not less than the applicable Federal, State or local statutory minimum wage.

''(B) WORKING CONDITIONS.—The employment of pilot program aliens will not adversely affect the working conditions of similarly employed workers in the area of employment.

''(C) LIMITATION ON EMPLOYMENT.—A pilot program alien will not be employed in any job opportunity which is not temporary or seasonal, and will not be employed by the employer in any job opportunity for more than 10 months in any 12-consecutive-month period.

''(D) NO LABOR DISPUTE.—No pilot program alien will be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout or work stoppage in the course of a labor dispute in the occupation at the place of employment.

''(E) NOTICE.—The employer, at the time of filing the attestation, has provided notice of the attestation to its workers employed in the occupation in which, and at the place of employment where, pilot program aliens will be employed.

''(F) JOB ORDERS.—The employer will file one or more job orders for the occupation (or occupations) covered by the attestation with the State employment security agency no later than the day on which the employer first employs any pilot program aliens in the occupation.

''(G) PREFERENCE TO DOMESTIC WORKERS.—The employer will give preference to able, willing and qualified United States workers who apply to the employer and are available at the time and place needed, for the first 25 days after the filing of the job order in an occupation or until 5 days before the date employment of workers in the occupation begins, whichever occurs later.

''(4) LIMITATION ON NUMBER OF VISAS.—In no case may the number of aliens who are admitted or provided status as a pilot program alien in a fiscal year exceed 25,000.

''(5) OPERATION OF PROGRAM IN NOT LESS THAN 5 AREAS.—Alien admissions under this section shall be allocated equally to employers in not less than 5 geographically and agriculturally diverse areas designated by the Secretary of Agriculture. The entire United States shall be encompassed within such areas.

''(6) GENERAL ACCOUNTING OFFICE REPORT.—

''(A) IN GENERAL.—The Comptroller General of the United States shall, concurrently with the operation of the pilot program established by this section, review the implementation and enforcement of the pilot program for the purpose of determining if—

''(i) the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed for employers;

''(ii) the program has ensured that pilot program aliens are employed only in authorized employment and that they timely depart the United States when their authorized stay ends;

''(iii) the program has ensured that implementation of the program is not displacing United States agricultural workers or diminishing the terms and conditions of employment of United States agricultural workers; and

''(iv) an unnecessary regulatory burden has been created for employers hiring workers admitted under this section.

''(B) REPORT.—Not later than 90 days after the termination of the pilot program established by this section, the Comptroller General of the United States shall submit a report to Congress setting forth the conclusions of the Comptroller General from the review conducted under subparagraph (A).

''(b) FILING A LABOR CONDITION ATTESTATION.—

''(1) FILING BY EMPLOYERS—Any employer in the United States is eligible to file a labor condition attestation.

''(2) FILING BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—An agricultural association may file a labor condition attestation as an agent on behalf of its members. Such an attestation filed by an agricultural association acting as an agent for its members, when accepted, shall apply to those employer members of the association that the association certifies to the State employment security agency are members of the association and have agreed in writing to comply with the requirements of this section.

''(3) PERIOD OF VALIDITY.—A labor condition attestation is valid from the date on which it is accepted by the State employment security agency for the period of time requested by the employer, but not to exceed 12 months.

''(4) WHERE TO FILE.—A labor condition attestation shall be filed with the State employment security agency having jurisdiction over the area of intended employment of the workers covered by the attestation. If an employer, or the members of an association of employers, will be employing workers in an area or areas covered by more than one such agency, the attestation shall be filed with each such agency having jurisdiction over an area where the workers will be employed.

''(5) DEADLINE FOR FILING.—A labor condition attestation may be filed at any time up to 12 months prior to the date of the employer's anticipated need for workers in the occupation (or occupations) covered by the attestation.

''(6) FILING FOR MULTIPLE OCCUPATIONS.—A labor condition attestation may be filed for one or more occupations and cover one or more periods of employment.

''(7) MAINTAINING REQUIRED DOCUMENTATION.—

''(A) BY EMPLOYERS.—Each employer covered by an accepted labor condition attestation must maintain a file of the documentation required in subsection (c) for each occupation included in an accepted attestation covering the employer. The documentation shall be retained for a period of one year following the expiration of an accepted attestation. The employer shall make the documentation available to representatives of the Secretary during normal business hours.

''(B) BY ASSOCIATIONS.—In complying with subparagraph (A), documentation maintained by an association filing a labor condition attestation on behalf of an employer shall be deemed to be maintained by the employer.

''(8) WITHDRAWAL.—

''(A) COMPLIANCE WITH ATTESTATION OBLIGATIONS.—An employer covered by an accepted labor condition attestation for an occupation shall comply with the terms and conditions of the attestation from the date the attestation is accepted and continuing throughout the period any persons are employed in an occupation covered by such an accepted attestation, whether or not pilot program aliens are employed in the occupation, unless the attestation is withdrawn.

''(B) TERMINATION OF OBLIGATIONS.—An employer may withdraw a labor condition attestation in total, or with respect to a particular occupation covered by the attestation. An association may withdraw such an attestation with respect to one or more of its members. To withdraw an attestation the employer or association must notify in writing the State employment security agency office with which the attestation was filed of the withdrawal of the attestation. An employer who withdraws an attestation, or on whose behalf an attestation is withdrawn by an association, is relieved of the obligations undertaken in the attestation with respect to the occupation (or occupations) with respect to which the attestation was withdrawn, upon acknowledgement by the appropriate State employment security agency of receipt of the withdrawal notice. An attestation may not be withdrawn with respect to any occupation while any pilot program alien covered by that attestation is employed in the occupation.

''(C) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by the employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required by the pilot program under this section is unaffected by withdrawal of a labor condition attestation.

''(c) EMPLOYER RESPONSIBILITIES AND REQUIREMENTS FOR EMPLOYING PILOT PROGRAM ALIENS.—

''(1) REQUIREMENT TO PAY THE PREVAILING WAGE.—

''(A) EFFECT OF THE ATTESTATION.—Employers shall pay each worker in an occupation covered by an accepted labor condition attestation at least the prevailing wage in the occupation in the area of intended employment. The preceding sentence does not require employers to pay all workers in the occupation the same wage. The employer may, in the sole discretion of the employer, maintain pay differentials based on experience, tenure with the employer, skill, or any other work-related factor, if the differential is not based on a criterion for which discrimination is prohibited by the law and all workers in the covered occupation receive at least the prevailing wage.

''(B) PAYMENT OF STATE EMPLOYMENT SECURITY AGENCY DETERMINED WAGE SUFFICIENT.—The employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage determined, such payment shall be considered sufficient to meet the requirement of this paragraph if the pilot program aliens—

''(i) are employed in the occupation for which the employer possesses an accepted labor condition attestation, and for which the employer or association possesses a prevailing wage determination by the State employment security agency, and

''(ii) are being paid at least the prevailing wage so determined.

''(C) RELIANCE ON WAGE SURVEY.—In lieu of the procedures of subparagraph (B), an employer may rely on other information, such as an employer generated prevailing wage survey and determination, which meets criteria specified by the Secretary by regulation. In the event of a complaint that the employer has failed to pay the required wage, the Secretary shall investigate to determine if the information upon which the employer relied complied with the criteria for prevailing wage determinations.

''(D) ALTERNATE METHODS OF PAYMENT PERMITTED.—

''(i) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate (described in clause (ii)), or other incentive pay system, including a group rate (described in clause (iii)). The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed. However, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

''(ii) TASK RATE.—For purposes of this subparagraph, a task rate is an incentive payment based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

''(iii) GROUP RATE.—For purposes of this subparagraph, a group rate is an incentive payment system in which the payment is shared among a group of workers working together to perform the task.

''(E) REQUIRED DOCUMENTATION.—The employer or association shall document compliance with this paragraph by retaining on file the employer or association's request for a determination by a State employment security agency and the prevailing wage determination received from such agency or other

information upon which the employer or association relied to assure compliance with the prevailing wage requirement.

''(2) REQUIREMENT TO PROVIDE HOUSING AND TRANSPORTATION.—

''(A) EFFECT OF THE ATTESTATION.—The employment of pilot program aliens shall not adversely affect the working conditions of United States workers similarly employed in the area of intended employment. The employer's obligation not to adversely affect working conditions shall continue for the duration of the period of employment by the employer of any pilot program aliens in the occupation and area of intended employment. An employer will be deemed to be in compliance with this attestation if the employer offers at least the benefits required by subparagraphs (B) through (D). The previous sentence does not require an employer to offer more than such benefits.

''(B) HOUSING REQUIRED.—

''(i) HOUSING OFFER.—The employer must offer to pilot program aliens and United States workers recruited from beyond normal recruiting distance housing, or a housing allowance, if it is prevailing practice in the occupation and area of intended employment to offer housing or a housing allowance to workers who are recruited from beyond normal commuting distance.

''(ii) HOUSING STANDARDS.—If the employer offers housing to such workers, the housing shall meet (at the option of the employer) applicable Federal farm labor housing standards or applicable local or State standards for rental, public accommodation, or other substantially similar class of habitation.

''(iii) CHARGES FOR HOUSING.—An employer who offers housing to such workers may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for utilities and maintenance, or such lesser amount as permitted by law.

''(iv) HOUSING ALLOWANCE AS ALTERNATIVE.—In lieu of offering housing to such workers, at the employer's sole discretion on an individual basis, the employer may provide a reasonable housing allowance. An employer who offers a housing allowance to such a worker under this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) merely by virtue of providing such housing allowance.

''(v) SECURITY DEPOSIT.—The requirement, if any, to offer housing to such a worker under this subparagraph shall not preclude an employer from requiring a reasonable deposit to protect against gross negligence or willful destruction of property, as a condition for providing such housing.

''(vi) DAMAGES.—An employer who offers housing to such a worker shall not be precluded from requiring a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(C) TRANSPORTATION.—If the employer provides transportation arrangements or assistance to pilot program aliens, the employer must offer to provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed by the employer in the occupation at the place of employment who were recruited from beyond normal commuting distance.

''(D) WORKERS' COMPENSATION.—If the employment covered by a labor condition attestation is not covered by the State workers' compensation law, the employer must provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the workers' employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(E) REQUIRED DOCUMENTATION.—

''(i) HOUSING AND TRANSPORTATION.—No specific documentation is required to be maintained to evidence compliance with the requirements of subparagraphs (B) and (C). In the event of a complaint alleging a failure to comply with such a requirement, the burden of proof shall be on the employer to show that the employer offered the required benefit to the complainant, or that the employer was not required by the terms of this paragraph to offer such benefit to the complainant.

''(ii) WORKERS' COMPENSATION.—The employer shall maintain copies of certificates of insurance evidencing compliance with subparagraph (D) throughout the period of validity of the labor condition attestation.

''(3) REQUIREMENT TO EMPLOY ALIENS IN TEMPORARY OR SEASONAL AGRICULTURAL JOB OPPORTUNITIES.—

''(A) LIMITATIONS.—

''(i) IN GENERAL.—The employer may employ pilot program aliens only in agricultural employment which is temporary or seasonal.

''(ii) SEASONAL BASIS.—For purposes of this section, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

''(iii) TEMPORARY BASIS.—For purposes of this section, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

''(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the employment meets such requirement.

''(4) REQUIREMENT NOT TO EMPLOY ALIENS IN JOB OPPORTUNITIES VACANT BECAUSE OF A LABOR DISPUTE.—

''(A) IN GENERAL.—No pilot program alien may be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment.

''(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the job opportunity in which the pilot program alien was employed was not vacant because the former occupant was on strike, locked out, or participating in a work stoppage in the course of a labor dispute in the occupation at the place of employment.

''(5) NOTICE OF FILING OF LABOR CONDITION ATTESTATION AND SUPPORTING DOCUMENTATION.—

''(A) IN GENERAL.—The employer shall—

''(i) provide notice of the filing of a labor condition attestation to the appropriate certified bargaining agent (if any) which represents workers of the employer in the occupation (or occupations) at the place of employment covered by the attestation; or

''(ii) in the case where no such bargaining agent exists, post notice of the filing of such an attestation in at least two conspicuous locations where applications for employment are accepted.

''(B) PERIOD FOR POSTING.—The requirement for a posting under subparagraph (A)(ii) begins on the day the attestation is filed, and continues through the period during which the employer's job order is required to remain active pursuant to paragraph (6)(A).

''(C) REQUIRED DOCUMENTATION.—The employer shall maintain a copy of the notice provided to the bargaining agent (if any), together with evidence that the notice was provided (such as a signed receipt of evidence of attempt to send the notice by certified or registered mail). In the case where no certified bargaining agent described in subparagraph (A)(i) exists, the employer shall retain a copy of the posted notice, together with information as to the dates and locations where the notice was displayed.

''(6) REQUIREMENT TO FILE A JOB ORDER.—

''(A) EFFECT OF THE ATTESTATION.—The employer, or an association acting as agent for its members, shall file the information necessary to complete a local job order for each occupation covered by an accepted labor condition attestation with the appropriate local office of the State employment security agency having jurisdiction over the area of intended employment, or with the State office of such an agency if workers will be employed in an area within the jurisdiction of more than one local office of such an agency. The job orders shall remain on file for 25 calendar days or until 5 calendar days before the anticipated date of need for workers in the occupation covered by the job order, whichever occurs later. The job order shall provide at least the minimum terms and conditions of employment required for participation in the pilot program.

''(B) DEADLINE FOR FILING.—A job order shall be filed under subparagraph (A) no later than the date on which the employer files a petition with the Attorney General for admission or extension of stay for aliens to be employed in the occupation for which the order is filed.

''(C) REQUIRED DOCUMENTATION.—The office of the State employment security agency which the employer or association provides with information necessary to file a local job order shall provide the employer with evidence that the information was provided in a timely manner as required by this paragraph, and the employer or association shall retain such evidence for each occupation in which pilot program aliens are employed.

''(7) REQUIREMENT TO GIVE PREFERENCE TO QUALIFIED UNITED STATES WORKERS.—

''(A) FILING 30 DAYS OR MORE BEFORE DATE OF NEED.—If a job order is filed 30 days or more before the anticipated date of need for workers in an occupation covered by a labor condition attestation and for which the job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who apply to the employer and who will be available at the time and place needed for the job opportunities covered by the attestation until 5 calendar days before the anticipated date of need for workers in the occupation, or until the employer's job opportunities in the occupation are filled with qualified United States workers, if that occurs more than 5 days before the anticipated date of need for workers in the occupation.

''(B) FILING FEWER THAN 30 DAYS BEFORE DATE OF NEED.—If a job order is filed fewer than 30 days before the anticipated date of need for workers in an occupation covered by such an attestation and for which a job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who are or will be available at the time and place needed during the first 25 days after the job order is filed or until the employer's job opportunities in the occupation are filled with United States workers,

regardless of whether any of the job opportunities may already be occupied by pilot program aliens.

''(C) FILING VACANCIES.—An employer may fill a job opportunity in an occupation covered by an accepted labor condition attestation which remains or becomes vacant after expiration of the required preference period specified in subparagraph (A) or (B) of paragraph (6) without regard to such preference.

''(D) JOB-RELATED REQUIREMENTS.—No employer shall be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful job-related standards of conduct and performance, including failure to meet minimum productivity standards after a 3-day break-in period.

''(E) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirements of this paragraph. In the event of a complaint, the burden of proof shall be on the complainant to show that the complainant applied for the job and was available at the time and place needed. If the complainant makes such a showing, the burden of proof shall be on the employer to show that the complainant was not qualified or that the preference period had expired.

''(d) REQUIREMENTS OF NOTICE OF CERTAIN BREAKS IN EMPLOYMENT.—

''(1) IN GENERAL.—The employer (or the association acting as agent for the employer) shall notify the Attorney General within 7 days if a pilot program alien prematurely abandons the alien's employment.

''(2) OUT-OF-STATUS.—A pilot program alien who abandons the alien's employment shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(c) and shall leave the United States or be subject to removal under section 237(a)(1)(C)(i).

''(e) ACCEPTANCE BY STATE EMPLOYMENT SECURITY AGENCY.—The State employment security agency shall review labor condition attestations submitted by employers or associations pursuant to this section only for completeness and obvious inaccuracies. Unless such an agency finds that the application is incomplete or obviously inaccurate, the agency shall accept the attestation within 7 days of the date of filing of the attestation, and return a copy to the applicant marked 'accepted'.

''(f) PUBLIC REGISTRY.—The Secretary shall maintain a registry of all accepted labor condition attestations and make such registry available for public inspection.

''(g) RESPONSIBILITIES OF THE STATE EMPLOYMENT SECURITY AGENCIES.—

''(1) DISSEMINATION OF LABOR MARKET INFORMATION.—The Secretary shall direct State employment security agencies to disseminate non-employer-specific information about potential labor needs based on accepted attestations filed by employers. Such dissemination shall be separate from the clearance of job orders through the Interstate and Intrastate Clearance Systems, and shall create no obligations for employers except as provided in this section.

''(2) REFERRAL OF WORKERS ON STATE EMPLOYMENT SECURITY AGENCY JOB ORDERS.—

''(A) IN GENERAL.—Such agencies holding job orders filed by employers covered by approved labor condition attestations shall be authorized to refer any able, willing, and qualified eligible job applicant who will be available at the time and place needed and who is authorized to work in the United States, including pilot program aliens who are seeking additional work in the United States and whose eligibility to remain in the United States pursuant to subsection (i) has not expired, on job orders filed by holders of accepted attestations.

''(B) PROCEDURES.—A State employment agency that refers any individuals for employment pursuant to subsection (g)(2)(A) shall comply with the procedures specified in subsection (b) of section 274A. For purposes of the attestation requirement in subsection (b)(1), the agency employee who is primarily involved in the referral of the individual shall make the attestation on behalf of the agency. The agency shall retain the completed forms and make them available for inspection as required in subsection (b)(3) of section 274A.

''(C) EMPLOYMENT VERIFICATION.—For purposes of complying with subsection (b) of section 274A with respect to an individual referred by a State employment agency, a pilot program employer may, at the employer's option, fulfill the requirements of subsection (b) of this section in lieu of retaining the documentation described in section 274A(a)(5).

''(h) ENFORCEMENT AND PENALTIES.—

''(1) ENFORCEMENT AUTHORITY.—

''(A) INVESTIGATION OF COMPLAINTS.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in subsection (a) or an employer's misrepresentation of material facts in such an application. Complaints may be filed by any aggrieved person or organizations (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 2 years after the date of the failure or misrepresentation, respectively. The Secretary shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) WRITTEN NOTICE OF FINDINGS AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subparagraph (A) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

''(2) REMEDIES.—

''(A) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or pilot program alien employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(B) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this section, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of pilot program aliens for a period of time determined by the Secretary not to exceed 1 year.

''(C) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an accepted labor condition attestation has—

''(i) filed an attestation which misrepresents a material fact; or

''(ii) failed to meet a condition specified in subsection (a),

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation. In determining the amount of civil money penalty to be assessed, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

''(D) PROGRAM DISQUALIFICATION.—Upon a second final determination that an employer has failed to pay the wages required under this section, the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from any subsequent employment of pilot program aliens.

''(3) ROLE OF ASSOCIATIONS.—

''(A) VIOLATION BY AN ASSOCIATION.—An employer on whose behalf a labor condition attestation is filed by an association acting as its agent is fully responsible for such attestation, and for complying with the terms and conditions of this section, as though the employer had filed the attestation itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

''(B) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing a labor condition attestation on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under paragraph (2)(D), no individual member of such association may be the beneficiary of the services of a pilot program alien in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files a labor condition attestation as an individual employer or such an attestation is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this section.

''(i) PROCEDURE FOR ADMISSION OR EXTENSION OF PILOT PROGRAM ALIENS.—

''(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

''(A) PETITIONING FOR ADMISSION.—An employer or an association acting as agent for its members who seeks the admission into the United States of pilot program aliens may file a petition with the District Director of the Immigration and Naturalization Service having jurisdiction over the location where the aliens will be employed. The petition shall be accompanied by an accepted and currently valid labor condition attestation covering the petitioner. The petition may be for named or unnamed individual or multiple beneficiaries.

''(B) EXPEDITED ADJUDICATION BY DISTRICT DIRECTOR.—If an employer's petition for admission of pilot program aliens is correctly filled out, and the employer is not ineligible to employ pilot program aliens, the District Director (or the Director's designee) shall approve the petition within 3 working days of receipt of the petition and accepted labor condition attestation and immediately (by fax, cable, or other means assuring expedited delivery) transmit a copy of the approved petition to the petitioner and to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(C) UNNAMED BENEFICIARIES SELECTED BY PETITIONER.—The petitioning employer or association or its representative shall approve the issuance of visas to beneficiaries who are unnamed on a petition for admission granted to the employer or association.

''(D) CRITERIA FOR ADMISSIBILITY.—

''(i) IN GENERAL.—An alien shall be admissible under this section if the alien is otherwise admissible under this Act and the alien is not debarred pursuant to the provisions of clause (ii).

''(ii) DISQUALIFICATION.—An alien shall be debarred from admission or being provided status as a pilot program alien under this section if the alien has, at any time during the past 5 years—

''(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(E) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the petitioner not to exceed 10 months, or the remaining validity period of the petitioner's approved labor condition attestation, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless the original petitioner or a subsequent petitioner has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

''(F) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

''(i) IN GENERAL.—The Attorney General shall cause to be issued to each pilot program alien a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

''(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

''(I) contain a fingerprint or other biometric identifying data (or both);

''(II) specify the date of the alien's authorization as a pilot program alien;

''(III) specify the expiration date of the alien's work authorization; and

''(IV) specify the alien's admission number or alien file number.

''(2) EXTENSION OF STAY.—

''(A) APPLICATION FOR EXTENSION OF STAY.—If a petitioner seeks to employ a pilot program alien already in the United States, the petitioner shall file with the Attorney General an application for an extension of the alien's stay. The application for extension of stay shall be accompanied by a currently valid labor condition attestation.

''(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 2 years from the date of the alien's last admission to the United States as a pilot program alien, whichever occurs first. An application for extension of stay may not be filed during the pendency of an alien's previous authorized period of employment, nor after the alien's authorized stay in the United States has expired.

''(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien already in the United States in pilot program alien status on the day the employer files its application for extension of stay. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application for extension of stay to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the extension has been filed and that the alien is authorized to work in the United States. Upon approval of an application for extension of stay, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application for extension of stay.

''(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF PILOT PROGRAM ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(3) LIMITATION ON AN INDIVIDUAL'S STAY IN PILOT PROGRAM STATUS.—An alien having status as a pilot program alien may not have the status extended for a continuous period longer than 2 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(c) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

''(j) TRUST FUND TO ASSURE WORKER RETURN.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund (in this section referred to as the 'Trust Fund') for the purpose of providing a monetary incentive for pilot program aliens to return to their country of origin upon expiration of their visas under this section.

''(2) WITHHOLDING OF WAGES; PAYMENT INTO THE TRUST FUND.—

''(A) IN GENERAL.—Employers of pilot program aliens shall—

''(i) withhold from the wages of their pilot program alien workers an amount equivalent to 25 percent of the wages of each pilot program alien worker and pay such withheld amount into the Trust Fund in accordance with paragraph (3); and

''(ii) pay to the Trust Fund an amount equivalent to the Federal tax on the wages paid to pilot program aliens that the employer would be obligated to pay under the Federal Unemployment Tax Act and the Federal Insurance Contributions Act.

Amounts withheld under clause (i) shall be maintained in such interest bearing account with such a financial institution as the Attorney General shall specify.

''(3) DISTRIBUTION OF FUNDS.—Amounts paid into the Trust Fund on behalf of a worker, and held pursuant to paragraph (2)(A)(i) and interest earned thereon, shall be paid by the Attorney General to the worker if—

''(A) the worker applies to the Attorney General (or the designee of the Attorney General) for payment within 30 days of the expiration of the alien's last authorized stay in the United States as a pilot program alien;

''(B) in such application the worker establishes that the worker has complied with the terms and conditions of this section; and

''(C) in connection with the application, the worker tenders the identification and employment authorization card issued to the worker pursuant to subsection (i)(1)(F) and establishes that the worker is identified as the person to whom the card was issued based on the biometric identification information contained on the card.

''(4) ADMINISTRATIVE EXPENSES.—The amounts paid into the Trust Fund and held pursuant to paragraph (2)(A)(ii), and interest earned thereon, shall be paid to the Attorney General, the Secretary of Labor, and the Secretary of State in amounts equivalent to the expenses incurred by such officials in the administration of section 101(a)(15)(H)(ii)(c) and this section.

''(5) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this subsection.

''(k) INVESTMENT OF TRUST FUND.—

''(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the price; or

''(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

''(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

''(3) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

''(4) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Attorney General) to report to the Congress each year on the financial condition

and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress to which the report is made.

''(l) MISCELLANEOUS PROVISIONS.—

''(1) APPLICABILITY OF LABOR LAWS.—Except as provided in paragraphs (2), (3), and (4), all Federal, State, and local labor laws (including laws affecting migrant farm workers) applicable to United States workers shall also apply to pilot program aliens.

''(2) LIMITATION OF WRITTEN DISCLOSURE IMPOSED UPON RECRUITERS.—Any disclosure required of recruiters under section of 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) need not be given to pilot program aliens prior to the time their visa is issued permitting entry into the United States.

''(3) EXEMPTION FROM FICA AND FUTA TAXES.—The wages paid to pilot program aliens shall be excluded from wages subject to taxation under the Federal Unemployment Tax Act and under the Federal Insurance Contributions Act.

''(4) INELIGIBILITY FOR CERTAIN PUBLIC BENEFITS PROGRAMS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), any alien provided status as a pilot program alien shall not be eligible for any Federal or State or local means-tested public benefit program.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to the following:

''(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

''(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

''(iii) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of non-cash, in-kind, short-term emergency disaster relief.

''(m) REGULATIONS.—

''(1) SELECTION OF AREAS.—The Secretary of Agriculture shall select the areas under subsection (a)(4) not later than 60 days after the date of the enactment of the Temporary Agricultural Worker Act of 1997.

''(2) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Agriculture, and the Attorney General shall approve, all regulations dealing with the approval of labor condition attestations for pilot program aliens and enforcement of the requirements for employing pilot program aliens under an approved attestation. The Secretary shall promulgate, and the Attorney General shall approve, such regulations not later than 90 days after the date of the enactment of the Temporary Agricultural Worker Act of 1997.

''(3) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary of Agriculture on all regulations dealing with the approval of petitions for admission or extension of stay of pilot program aliens and the requirements for employing pilot program aliens and the enforcement of such requirements. The Attorney General shall promulgate such regulations not later than 90 days after the date of the enactment of the Temporary Agricultural Worker Act of 1997.

''(n) DEFINITIONS.—For the purpose of this section:

''(1) AGRICULTURAL ASSOCIATION.—The term 'agricultural association' means any nonprofit or cooperative association of farmers, growers, or ranchers incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any agricultural workers.

''(2) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

''(3) EMPLOYER.—The term 'employer' means any person or entity, including any independent contractor and any agricultural association, that employs workers.

''(4) PILOT PROGRAM ALIEN.—The term 'pilot program alien' means an alien admitted to the United States or provided status as a nonimmigrant under section 101(a)(15)(H)(ii)(c).

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Labor.

''(6) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen, a United States national, or an alien, who is legally permitted to work in the job opportunity within the United States other than an alien admitted pursuant to this section.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

''Sec. 218A. Alternative agricultural worker program.''.

ADDITIONAL COSPONSORS

S. 61

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

At the request of Mr. LOTT, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 61, supra.

S. 318

At the request of Mr. D'AMATO, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 318, a bill to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 412

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 839

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 839, a bill to improve teacher mastery and use of educational technology.

S. 852

At the request of Mr. LOTT, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 887

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom program, and for other purposes.

S. 943

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation accidents.

S. 951

At the request of Mr. TORRICELLI, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 951, a bill to reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency.

S. 1052

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1052, a bill to amend the Andean Trade Preference Act to prohibit the provision of duty-free treatment for live plants and fresh cut flowers described in chapter 6 of the Harmonized Tariff Schedule of the United States.

S. 1169

At the request of Mr. REED, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 1169, a bill to establish professional development partnerships to improve the quality of America's teachers and the academic achievement of students in the classroom, and for other purposes.

S. 1204

At the request of Mr. COVERDELL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1204, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising

under the Constitution; and to clarify when government action is sufficently final to ripen certain Federal claims arising under the Constitution.

S. 1208

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1208, a bill to protect women's reproductive health and constitutional right to choice, and for other purposes.

S. 1220

At the request of Mr. DODD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1222

At the request of Mr. CHAFEE, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1222, a bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes.

S. 1251

At the request of Mr. BREAUX, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

At the request of Mr. D'AMATO, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maine [Ms. COLLINS], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 1251, supra.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Ohio [Mr. DEWINE], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1287

At the request of Mr. JEFFORDS, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1287, a bill to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants.

S. 1297

At the request of Mr. COVERDELL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1297, a bill to redesignate Washington National Airport as ''Ronald Reagan Washington National Airport''.

S. 1311

At the request of Mr. LOTT, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

S. 1318

At the request of Mr. ABRAHAM, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 1318, a bill to establish an adoption awareness program, and for other purposes.

S. 1320

At the request of Mr. ROCKEFELLER, the names of the Senator from Illinois [Mr. DURBIN], the Senator from North Dakota [Mr. CONRAD], the Senator from South Dakota [Mr. JOHNSON], the Senator from Arizona [Mr. MCCAIN], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Wisconsin [Mr. KOHL], the Senator from New Mexico [Mr. BINGAMAN], the Senator from New York [Mr. MOYNIHAN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 1320, a bill to provide a scientific basis for the Secretary of Veterans Affairs to assess the nature of the association between illnesses and exposure to toxic agents and environmental or other wartime hazards as a result of service in the Persian Gulf during the Persian Gulf War for purposes of determining a service connection relating to such illnesses, and for other purposes.

S. 1321

At the request of Mr. TORRICELLI, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1334

At the request of Mr. BOND, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availablity of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1335

At the request of Ms. SNOWE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1335, a bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1365

At the request of Ms. MIKULSKI, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1365, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1391

At the request of Mr. DODD, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 1391, a bill to authorize the President to permit the sale and export of food, medicines, and medical equipment to Cuba.

S. 1396

At the request of Mr. JOHNSON, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1396, a bill to amend the Child Nutrition Act of 1966 to expand the School Breakfast Program in elementary schools.

S. 1418

At the request of Mr. AKAKA, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1418, a bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes.

S. 1472

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 1472, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for public elementary and secondary school construction, and for other purposes.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1472, supra.

S. 1520

At the request of Mr. HUTCHINSON, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from New Hampshire [Mr. SMITH], and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 1520, a bill to terminate the Internal Revenue Code of 1986.

SENATE CONCURRENT RESOLUTION 39

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Concurrent Resolution 39, a

concurrent resolution expressing the sense of the Congress that the German Government should expand and simplify its reparations system, provide reparations to Holocaust survivors in Eastern and Central Europe, and set up a fund to help cover the medical expenses of Holocaust survivors.

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. GRASSLEY, his name was added as a cosponsor of Senate Concurrent Resolution 52, a concurrent resolution relating to maintaining the current standard behind the ''Made in USA'' label, in order to protect consumers and jobs in the United States.

At the request of Mr. HOLLINGS, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Nebraska [Mr. KERREY], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Concurrent Resolution 52, supra.

SENATE CONCURRENT RESOLUTION 65

At the request of Ms. SNOWE, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution calling for a United States effort to end restriction on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE RESOLUTION 119

At the request of Mr. BAUCUS, his name was added as a cosponsor of Senate Resolution 119, a resolution to express the sense of the Senate that the Secretary of Agriculture should establish a temporary emergency minimum milk price that is equitable to all producers nationwide and that provides price relief to economically distressed milk producers.

SENATE CONCURRENT RESOLUTION 68—RELATIVE TO SINE DIE ADJOURNMENT

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 68

Resolved by the Senate (the House of Representatives concurring), That when the House adjourns on the legislative day of Thursday. November 13, 1997, or Friday, November 14, 1997, on a motion offered pursuant to this concurrent resolution by the Majority Leader or his designee, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, and that when the Senate adjourns on Thursday. November 13, 1997, or Friday, November 14, 1997, on a motion offered pursuant to this concurrent resolution by the Majoriy Leader or his designee, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SEC. 3. The Congress declares that clause 5 of rule III of the Rules of the House of Representatives and the order of the Senate of January 7, 1997, authorize for the duration of the One Hundred Fifth Congress the Clerk of the House of Representatives and the Secretary of the Senate, respectively; to receive messages from the President during periods when the House and Senate are not in session and thereby preserve until adjournment sine die of the final regular session of the One Hundred Fifth Congress the constitutional prerogative of the House and Senate to reconsider vetoed measures in light of the objections of the President, since the availability of the Clerk and the Secretary during any earlier adjourment of either House during the current Congress does not prevent the return by the President of any bill presented him for approval.

SEC. 4. The Clerk of the House of Representatives shall inform the President of the United States of the adoption of this concurrent resolution.

SENATE CONCURRENT RESOLUTION 69—CORRECTING THE ENROLLMENT OF THE BILL S. 830

Mr. JEFFORDS submitted the following concurrent resolution; which was considered and agreed to.

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 119(b) of the bill:

(A) Strike paragraph (2) (relating to conforming amendments).

(B) Strike ''(b) SECTION 505(j).—'' and all that follows through '''(3)(A) The Secretary shall'' and insert the following:

''(b) SECTION 505(j).—Section 505(j) (21 U.S.C. 355(j)) is amended by adding at the end the following paragraph:

'''(9)(A) The Secretary shall''.

(2) In section 125(d)(2) of the bill, in the matter preceding subparagraph (A), insert after ''antibiotic drug'' the second place such term appears the following: ''(including any salt or ester of the antibiotic drug)''.

(3) In section 127(a) of the bill: In section 503A of the Federal Food, Drug, and Cosmetic Act (as proposed to be inserted by such section 127(a)), in the second sentence of subsection (d)(2), strike ''or other criteria'' and insert ''and other criteria''.

(4) In section 412(c) of the bill:

(A) In subparagraph (1) of section 502(e) of the Federal Food, Drug, and Cosmetic Act (as proposed to be amended by such section 412(c)), in subclause (iii) of clause (A), insert before the period the following: ''or to prescription drugs''.

(B) Strike ''(c) MISBRANDING.—Subparagraph (1) of section 502(e)'' and insert the following:

''(c) MISBRANDING.—

''(1) IN GENERAL.—Subparagraph (1) of section 502(e)''.

(C) Add at the end the following:

''(2) RULE OF CONSTRUCTION.—Nothing in this Act, or the amendments made by this Act, shall affect the question of the authority of the Secretary of Health and Human Services regarding inactive ingredient labeling for prescription drugs under sections of the Federal Food, Drug, and Cosmetic Act other than section 502(e)(1)(A)(iii).''.

(5) Strike section 501 of the bill and insert the following:

''SEC. 501. EFFECTIVE DATE.

''(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

''(b) IMMEDIATE EFFECT.—Notwithstanding subsection (a), the provisions of and the amendments made by sections 111, 121, 125, and 307 of this Act, and the provisions of section 510(m) of the Federal Food, Drug, and Cosmetic Act (as added by section 206(a)(2)), shall take effect on the date of enactment of this Act.''.

SENATE CONCURRENT RESOLUTION 70—CORRECTING A TECHNICAL ERROR IN THE ENROLLMENT OF THE BILL S. 1026

Mr. D'AMATO submitted the following concurrent resolution; which was considered and agreed to.

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1026) to reauthorize the Export-Import Bank of the United States, the Secretary of the Senate shall strike subsection (a) of section 2 and insert the following:

''(a) IN GENERAL.—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking 'until' and all that follows through 'but' and inserting 'until the close of business on September 30, 2001, but'.''.

SENATE RESOLUTION 156—RELATIVE TO SINE DIE ADJOURNMENT

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 156

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 157—TENDERING THE THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 157

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Al Gore, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundred Fifth Congress.

SENATE RESOLUTION 158—TENDERING THE THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 158

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Strom Thurmond, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundred Fifth Congress.

SENATE RESOLUTION 159—TO COMMEND THE EXEMPLARY LEADERSHIP OF THE DEMOCRATIC LEADER

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 159

Resolved, That the thanks of the Senate are hereby tendered to the distinguished Democratic Leader, the Senator from South Dakota, the Honorable Thomas A. Daschle, for his exemplary leadership and the cooperative and dedicated manner in which he has performed his leadership responsibilities in the conduct of Senate business during the first session of the 105th Congress.

SENATE RESOLUTION 160—COMMENDING THE MAJORITY LEADER

Mr. DASCHLE submitted the following resolution; which was considered and agreed to.

S. RES. 160

Resolved, That the thanks of the Senate are hereby tendered to the distinguished Majority Leader, the Senator from Mississippi, the Honorable Trent Lott, for his exemplary leadership and the cooperative and dedicated manner in which he has performed his leadership responsibilities in the conduct of Senate business during the first session of the 105th Congress.

SENATE RESOLUTION 161—AMENDING SENATE RESOLUTION 48

Mr. LOTT submitted the following resolution; which was considered and agreed to.

S. RES. 161

Resolved, That Senate Resolution 48, 105th Congress, agreed to February 4, 1997, is amended—

(1) in section 1(e), by striking ''$5,000'' and inserting ''$10,000''; and

(2) in sections 1(e) and 1(g), by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

SENATE RESOLUTION 162—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to.

S. RES. 162

Whereas, in the case of United States v. Blackley, Criminal Case No. 97–0166, pending in the United States District Court for the District of Columbia, testimony has been requested from Brent Baglien, a former employee on the staff of the Committee on Agriculture, Nutrition, and Forestry;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Brent Baglien, and any other present or former employee from whom testimony may be required, are authorized to testify in the case of United States v. Blackley, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Brent Baglien and any present or former employee of the Senate in connection with testimony in United States v. Blackley.

SENATE RESOLUTION 163—DESIGNATING A NATIONAL WEEK OF RECOGNITION FOR DOROTHY DAY AND THOSE WHOM SHE SERVED

Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. WELLSTONE, Mr. LEVIN, Mr. DODD, Mr. TORRICELLI, Mr. REED, Mr. DURBIN, Ms. MIKULSKI, and Mr. KENNEDY) submitted the following resolution; which was considered and agreed to.

S. RES. 163

Whereas November 8, 1997, marks the 100th anniversary of the birth of Dorothy Day on Pineapple Street in Brooklyn, New York;

Whereas Dorothy Day was a woman who lived a life of voluntary poverty, guided by the principles of social justice and solidarity with the poor;

Whereas in 1933 Dorothy Day and Peter Maurin founded the Catholic Worker Movement and the Catholic Worker newspaper ''to realize in the individual and society the express and implied teachings of Christ'';

Whereas the Catholic Worker ''Houses of Hospitality'' founded by Dorothy Day have ministered to the physical and spiritual needs of the poor for over 60 years;

Whereas there are now more than 125 Catholic Worker ''Houses of Hospitality'' in the United States and throughout the world;

Whereas in 1972 Dorothy Day was awarded the Laetare Medal by the University of Notre Dame for ''comforting the afflicted and afflicting the comfortable virtually all of her life'';

Whereas upon the death of Dorothy Day in 1980, noted Catholic historian David O'Brien called her ''the most significant, interesting, and influential person in the history of American Catholicism'';

Whereas His Emminence John Cardinal O'Connor has stated that he is considering recommending Dorothy Day to the Pope for Cannonization; and

Whereas Dorothy Day serves as inspiration for those who strive to live their faith: Now, therefore, be it

Resolved, That the Senate—

(1) expresses deep admiration and respect for the life and work of Dorothy Day;

(2) recognizes that the work of Dorothy Day improved the lives of countless people and that her example has inspired others to follow her in a life of solidarity with the poor;

(3) encourages all Americans to reflect on how they might learn from Dorothy Day's example and continue her work of ministering to the needy; and

(4) designates the week of November 8, 1997, through November 14, 1997, as the ''National Week of Recognition for Dorothy Day and Those Whom She Served''.

SEC. 2. TRANSMITTAL.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to—

(1) Maryhouse, 55 East Third Street, New York City, New York;

(2) St. Joseph House, 36 East First Street, New York City, New York; and

(3) His Emminence John Cardinal O'Connor of the Archdiocese of New York, New York City, New York.

AMENDMENTS SUBMITTED

THE OCEAN AND COASTAL RESEARCH REVITALIZATION ACT OF 1997

SNOWE AMENDMENT NO. 1636

Mr. LOTT (for Ms. SNOWE) proposed an amendment to the bill (S. 927) to reauthorize the Sea Grant Program; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This act may be cited as the ''National Sea Grant College Program Reauthorization Act of 1997''.

SEC. 2. AMENDMENT OF NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3. FINDINGS.

(a) Section 202(a)(1) (33 U.S.C. 1121(a)(1)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following:

''(D) encourage the development of forecast and analysis systems for coastal hazards;''.

(b) Section 202(a)(6) (33 U.S.C. 1121(a)(6)) is amended by striking the second sentence and inserting the following: ''The most cost-effective way to promote such activities is through continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant institutes, and other institutions.''.

SEC. 4. DEFINITIONS.

(a) Section 203 (33 U.S.C. 1122) is amended—

(1) in paragraph (3)—

(A) by striking ''their university or'' and inserting ''his or her''; and

(B) by striking ''college, programs, or regional consortium'' and inserting ''college or sea grant institute'';

(2) by striking paragraph (4) and inserting the following:

''(4) The term 'field related to ocean, coastal, and Great Lakes resources' means any

discipline or field, including marine affairs, resource management, technology, education, or science, which is concerned with or likely to improve the understanding, assessment, development, utilization, or conservation of ocean, coastal, or Great Lakes resources.'';

(3) by redesignating paragraphs (5) through (16) as paragraphs (7) through (17), respectively, and inserting after paragraph (4) the following:

''(5) The term 'Great Lakes' includes Lake Champlain.

''(6) The term 'institution' means any public or private institution of higher education, institute, laboratory, or State or local agency.'';

(4) by striking ''regional consortium, institution of higher education, institute, or laboratory'' in paragraph (11) (as redesignated) and inserting ''institute or other institution'';

(5) by striking paragraphs (12) through (17) (as redesignated) and inserting after paragraph (11) the following:

''(12) The term 'project' means any individually described activity in a field related to ocean, coastal, and Great Lakes resources involving research, education, training, or advisory services administered by a person with expertise in such a field.

''(13) The term 'sea grant college' means any institution, or any association or alliance of two or more such institutions, designated as such by the Secretary under section 207 (33 U.S.C. 1126) of this Act.

''(14) The term 'sea grant institute' means any institution, or any association or alliance of two or more such institutions, designated as such by the Secretary under section 207 (33 U.S.C. 1126) of this Act.

''(15) The term 'sea grant program' means a program of research and outreach which is administered by one or more sea grant colleges or sea grant institutes.

''(16) The term 'Secretary' means the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere.

''(17) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States.''.

(b) The Act is amended—

(1) in section 209(b) (33 U.S.C. 1128(b)), as amended by this Act, by striking '', the Under Secretary,''; and

(2) by striking ''Under Secretary'' every other place it appears and inserting ''Secretary''.

SEC. 5. NATIONAL SEA GRANT COLLEGE PROGRAM.

Section 204 (33 U.S.C. 1123) is amended to read as follows:

''SEC. 204. NATIONAL SEA GRANT COLLEGE PROGRAM.

''(a) PROGRAM MAINTENANCE.—The Secretary shall maintain within the Administration, a program to be known as the national sea grant college program. The national sea grant college program shall be administered by a national sea grant office within the Administration.

''(b) PROGRAM ELEMENTS.—The national sea grant college program shall consist of the financial assistance and other activities authorized in this subchapter, and shall provide support for the following elements—

''(1) sea grant programs which comprise a national sea grant college program network, including international projects conducted within such programs;

''(2) administration of the national sea grant college program and this Act by the national sea grant office, the Administration, and the panel;

''(3) the fellowship program under section 208; and

''(4) any national strategic investments in fields relating to ocean, coastal, and Great Lakes resources developed with the approval of the panel, the sea grant colleges, and the sea grant institutes.

''(c) RESPONSIBILITIES OF THE SECRETARY.—

''(1) The Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall develop a long-range strategic plan which establishes priorities for the national sea grant college program and which provides an appropriately balanced response to local, regional, and national needs.

''(2) Within 6 months of the date of enactment of the Ocean and Coastal Research Revitalization Act of 1997, the Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall establish guidelines related to the activities and responsibilities of sea grant colleges and sea grant institutes. Such guidelines shall include requirements for the conduct of merit review by the sea grant colleges and sea grant institutes of proposals for grants and contracts to be awarded under section 205, providing, at a minimum, for standardized documentation of such proposals and peer review of all research projects.

''(3) The Secretary shall by regulation prescribe the qualifications required for designation of sea grant colleges and sea grant institutes under section 207.

''(4) To carry out the provisions of this subchapter, the Secretary may—

''(A) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with civil service laws;

''(B) make appointments with respect to temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code;

''(C) publish or arrange for the publication of, and otherwise disseminate, in cooperation with other offices and programs in the Administration and without regard to section 501 of title 44, any information of research, educational, training or other value in fields related to ocean, coastal, or Great Lakes resources;

''(D) enter into contracts, cooperative agreements, and other transactions without regard to section 5 of title 41, United States Code;

''(E) notwithstanding section 1342 of title 31, United States Code, accept donations and voluntary and uncompensated services;

''(F) accept funds from other Federal departments and agencies, including agencies within the Administration, to pay for and add to grants made and contracts entered into by the Secretary;

''(G) promulgate such rules and regulations as may be necessary and appropriate.

''(d) DIRECTOR OF THE NATIONAL SEA GRANT COLLEGE PROGRAM.—

''(1) The Secretary shall appoint, as the Director of the National Sea Grant College Program, a qualified individual who has appropriate administrative experience and knowledge or expertise in fields related to ocean, coastal, and Great Lakes resources. The Director shall be appointed and compensated, without regard to the provisions of title 5 governing appointments in the competitive service, at a rate payable under section 5376 of title 5, United States Code.

''(2) Subject to the supervision of the Secretary, the Director shall administer the national sea grant college program and oversee the operation of the national sea grant office. In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

''(A) facilitate and coordinate the development of a long-range strategic plan under subsection (c)(1);

''(B) advise the Secretary with respect to the expertise and capabilities which are available within or through the national sea grant college program and encourage the use of such expertise and capabilities, on a cooperative or other basis, by other offices and activities within the Administration, and other Federal departments and agencies;

''(C) advise the Secretary on the designation of sea grant colleges and sea grant institutes, and, if appropriate, on the termination or suspension of any such designation; and

''(D) encourage the establishment and growth of sea grant programs, and cooperation and coordination with other Federal activities in fields related to ocean, coastal, and Great Lakes resources.

''(3) With respect to sea grant colleges and sea grant institutes, the Director shall—

''(A) evaluate the programs of sea grant colleges and sea grant institutes, using the priorities, guidelines, and qualifications established by the Secretary;

''(B) subject to the availability of appropriations, allocate funding among sea grant colleges and sea grant institutes so as to—

''(i) promote healthy competition among sea grant colleges and institutes;

''(ii) encourage successful implementation of sea grant programs; and

''(iii) to the maximum extent consistent with other provisions of this Act, provide a stable base of funding for sea grant colleges and institutes; and

''(C) ensure compliance with the guidelines for merit review under subsection (c)(2).''.

SEC. 6. REPEAL OF SEA GRANT INTERNATIONAL PROGRAM.

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is repealed.

SEC. 7. SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

Section 207 (33 U.S.C. 1126) is amended to read as follows:

''SEC. 207. SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

''(a) DESIGNATION.—

''(1) A sea grant college or sea grant institute shall meet the following qualifications—

''(A) have an existing broad base of competence in fields related to ocean, coastal, and Great Lakes resources;

''(B) make a long-term commitment to the objective in section 202(b), as determined by the Secretary;

''(C) cooperate with other sea grant colleges and institutes and other persons to solve problems or meet needs relating to ocean, coastal, and Great Lakes resources;

''(D) have received financial assistance under section 205 of this title (33 U.S.C. 1124);

''(E) be recognized for excellence in fields related to ocean, coastal, and Great Lakes resources (including marine resources management and science), as determined by the Secretary; and

''(F) meet such other qualifications as the Secretary, in consultation with the panel, considers necessary or appropriate.

''(2) The Secretary may designate an institution, or an association or alliance of two or more such institutions, as a sea grant college if the institution, association, or alliance—

''(A) meets the qualifications in paragraph (1); and

''(B) maintains a program of research, advisory services, training, and education in fields related to ocean, coastal, and Great Lakes resources.

''(3) The Secretary may designate an institution, or an association or alliance of two or more such institutions, as a sea grant institute if the institution, association, or alliance—

''(A) meets the qualifications in paragraph (1); and

''(B) maintains a program which includes, at a minimum, research and advisory services.

''(b) EXISTING DESIGNEES.—Any institution, or association or alliance of two or more such institutions, designated as a sea grant college or awarded institutional program status by the Director prior to the date of enactment of this Act, shall not have to reapply for designation as a sea grant college or sea grant institute, respectively, after the date of enactment of this act, if the Director determines that the institution, or association or alliance of institutions, meets the qualifications in subsection (a).

''(c) SUSPENSION OR TERMINATION OF DESIGNATION.—The Secretary may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a).

''(d) DUTIES.—Subject to any regulations prescribed or guidelines established by the Secretary, it shall be the responsibility of each sea grant college and sea grant institute—

''(1) to develop and implement, in consultation with the Secretary and the panel, a program that is consistent with the guidelines and priorities established under section 204(c); and

''(2) to conduct a merit review of all proposals for grants and contracts to be awarded under section 205.''.

SEC. 8. SEA GRANT REVIEW PANEL.

(a) Section 209(a) (33 U.S.C. 1128(a)) is amended—

(1) by striking ''; commencement date''; and

(2) by striking the second sentence.

(b) Section 209(b) (33 U.S.C. 1128(b)) is amended—

(1) by striking ''The Panel'' and inserting ''The panel'';

(2) by striking ''and section 3 of the Sea Grant College Program Improvement Act of 1976'' in paragraph (1); and

(3) by striking ''regional consortia'' in paragraph (3) and inserting ''institutes''.

(c) Section 209(c) (33 U.S.C. 1128(c)) is amended—

(1) in paragraph (1) by striking ''college, sea grant regional consortium, or sea grant program'' and inserting ''college or sea grant institute'';

(2) by striking paragraph (5)(A) and inserting the following:

''(A) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS, CONTRACTS, AND FELLOWSHIPS.—Section 212(a) (33 U.S.C. 1131(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this Act—

''(A) $55,400,000 for fiscal year 1998;

''(B) $56,500,000 for fiscal year 1999;

''(C) $57,600,000 for fiscal year 2000;

''(D) $58,800,000 for fiscal year 2001; and

''(E) $59,900,000 for fiscal year 2002.

''(2) ZEBRA MUSSEL AND OYSTER RESEARCH.—In addition to the amount authorized for each fiscal year under paragraph (1)—

''(A) up to $2,800,000 may be made available as provided in section 1301(b)(4)(A) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4741(b)(4)(A)) for competitive grants for university research on the zebra mussel;

''(B) up to $3,000,000 may be made available for competitive grants for university research on oyster diseases and oyster-related human health risks; and

''(C) up to $5,000,000 may be made available for competitive grants for university research on Pfiesteria piscicida and other harmful algal blooms.

(b) LIMITATION ON CERTAIN FUNDING.—Section 212(b)(1) (33 U.S.C. 1131(b)(1)) is amended to read as follows:

''(b) –PROGRAM ELEMENTS.—

''(1) LIMITATION.—No more than 5 percent of the lesser of—

''(A) the amount authorized to be appropriated; or

''(B) the amount appropriated,

for each fiscal year under subsection (a) may be used to fund the program element contained in section 204(b)(2).

''(c) NOTICE OF REPROGRAMMING.—If any funds authorized by this section are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committees on Science and Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(d) NOTICE OF REORGANIZATION.—The Secretary shall provide notice to the Committees on Science, Resources, and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 45 days before any major reorganization of any program, project, or activity of the National Sea Grant College Program.''.

SEC. 10. ADMINISTRATIVE LAW JUDGES.

Notwithstanding section 559 of title 5, United States Code, with respect to any marine resource conservation law or regulation administered by the Secretary of Commerce acting through the National Oceanic and Atmospheric Administration, all adjudicatory functions which are required by chapter 5 of title 5 of such Code to be performed by an Administrative Law Judge may be performed by the United States Coast Guard on a reimbursable basis. Should the United States Coast Guard require the detail of an Administrative Law Judge to perform any of these functions, it may request such temporary or occasional assistance from the Office of Personnel Management pursuant to section 3344 of title 5, United States Code.

THE HOMEOWNERS INSURANCE PROTECTION ACT

D'AMATO AMENDMENT NO. 1637

Mr. LOTT (for Mr. D'AMATO) proposed an amendment to the bill (H.R. 607) to amend the Truth in Lending Act to require notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—SENIOR CITIZEN HOME EQUITY PROTECTION

Sec. 101. Short title.

Subtitle A—Senior Citizen Home Equity Protection

Sec. 111. Disclosure requirements; prohibition of funding of unnecessary or excessive costs.

Sec. 112. Implementation.

Subtitle B—Temporary Extension of Public Housing and Section 8 Rental Assistance Provisions

Sec. 121. Public housing ceiling rents and income adjustments and preferences for assisted housing.

Sec. 122. Public housing demolition and disposition.

Sec. 123. Public housing funding flexibility and mixed-finance developments.

Sec. 124. Minimum rents.

Sec. 125. Provisions relating to section 8 rental assistance program.

Subtitle C—Reauthorization of Federally Assisted Multifamily Rental Housing Provisions

Sec. 131. Multifamily housing finance pilot programs.

Sec. 132. Hud disposition of multifamily housing.

Sec. 133. Multifamily mortgage auctions.

Sec. 134. Clarification of owner's right to prepay.

Subtitle D—Reauthorization of Rural Housing Programs

Sec. 141. Housing in underserved areas program.

Sec. 142. Housing and related facilities for elderly persons and families and other low-income persons and families.

Sec. 143. Loan guarantees for multifamily rental housing in rural areas.

Subtitle E—Reauthorization of National Flood Insurance Program

Sec. 151. Program expiration.

Sec. 152. Borrowing authority.

Sec. 153. Emergency implementation of program.

Sec. 154. Authorization of appropriations for studies.

Subtitle F—Native American Housing Assistance

Sec. 161. Subsidy layering certification.

Sec. 162. Inclusion of homebuyer selection policies and criteria.

Sec. 163. Repayment of grant amounts for violation of affordable housing requirement.

Sec. 164. United States Housing Act of 1937.

Sec. 165. Miscellaneous.

TITLE II—HOMEOWNERS PROTECTION ACT

Sec. 201. Short title.

Sec. 202. Definitions.

Sec. 203. Termination of private mortgage insurance.

Sec. 204. Disclosure requirements.

Sec. 205. Notification upon cancellation or termination.

Sec. 206. Disclosure requirements for lender paid mortgage insurance.

Sec. 207. Fees for disclosures.

Sec. 208. Civil liability.

Sec. 209. Effect on other laws and agreements.

Sec. 210. Enforcement.

Sec. 211. Construction.

Sec. 212. Effective date.

TITLE III—ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Sec. 301. Abolishment.

TITLE I—SENIOR CITIZEN HOME EQUITY PROTECTION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Senior Citizen Home Equity Protection Act''.

Subtitle A—Senior Citizen Home Equity Protection

SEC. 111. DISCLOSURE REQUIREMENTS; PROHIBITION OF FUNDING OF UNNECESSARY OR EXCESSIVE COSTS.

Section 255(d) of the National Housing Act (12 U.S.C. 1715z–20(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

''(C) has received full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services; and'';

(2) in paragraph (9)(F), by striking ''and'';

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

(4) by adding at the end the following:

''(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.''.

SEC. 112. IMPLEMENTATION.

(a) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by section 111 in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subsection (b).

(b) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of enactment of this Act, issue final regulations to implement the amendments made by section 111. Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(3)(B) of that section).

Subtitle B—Temporary Extension of Public Housing and Section 8 Rental Assistance Provisions

SEC. 121. PUBLIC HOUSING CEILING RENTS AND INCOME ADJUSTMENTS AND PREFERENCES FOR ASSISTED HOUSING.

Section 402(f) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437aa note) is amended by striking ''and 1997'' and inserting '', 1997, and 1998''.

SEC. 122. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

Section 1002(d) of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995 (42 U.S.C. 1437c note) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

SEC. 123. PUBLIC HOUSING FUNDING FLEXIBILITY AND MIXED-FINANCE DEVELOPMENTS.

(a) EXTENSION OF AUTHORITY.—Section 201(a)(2) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437*l* note) is amended to read as follows:

''(2) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937 shall be effective only with respect to assistance provided from funds made available for fiscal year 1998 or any preceding fiscal year, except that the authority in the first sentence of section 14(q)(1) of that Act to use up to 10 percent of the allocation of certain funds for any operating subsidy purpose shall not apply to amounts made available for fiscal year 1998.''.

(b) MIXED FINANCE.—Section 14(q)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(q)(1)) is amended by inserting after the first sentence the following: ''Such assistance may involve the drawdown of funds on a schedule commensurate with construction draws for deposit into an interest earning escrow account to serve as collateral or credit enhancement for bonds issued by a public agency for the construction or rehabilitation of the development.''.

SEC. 124. MINIMUM RENTS.

Section 402(a) of The Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 40) is amended in the matter preceding paragraph (1) by striking ''fiscal year 1997'' and inserting ''fiscal years 1997 and 1998''.

SEC. 125. PROVISIONS RELATING TO SECTION 8 RENTAL ASSISTANCE PROGRAM.

Section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134)) (42 U.S.C. 1437f note) is amended by striking ''and 1997'' and inserting '', 1997, and 1998''.

Subtitle C—Reauthorization of Federally Assisted Multifamily Rental Housing Provisions

SEC. 131. MULTIFAMILY HOUSING FINANCE PILOT PROGRAMS.

Section 542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in subsection (b)(5), by inserting before the period at the end of the first sentence the following: '', and not more than an additional 15,000 units during fiscal year 1998''; and

(2) in the first sentence of subsection (c)(4)—

(A) by striking ''and'' and inserting a comma; and

(B) by inserting before the period at the end the following: '', and not more than an additional 15,000 units during fiscal year 1998''.

SEC. 132. HUD DISPOSITION OF MULTIFAMILY HOUSING.

Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a) is amended by inserting after ''owned by the Secretary'' the following: '', including the provision of grants and loans from the General Insurance Fund for the necessary costs of rehabilitation or demolition,''.

SEC. 133. MULTIFAMILY MORTGAGE AUCTIONS.

Section 221(g)(4)(C) of the National Housing Act (12 U.S.C. 1715*l*(g)(4)(C)) is amended—

(1) in the first sentence of clause (viii), by striking ''September 30, 1996'' and inserting ''December 31, 2000''; and

(2) by adding at the end the following:

''(ix) The authority of the Secretary to conduct multifamily auctions under this subparagraph shall be effective for any fiscal year only to the extent and in such amounts as are approved in appropriations Acts for the costs of loan guarantees (as defined in section 502 of the Congressional Budget Act of 1974), including the cost of modifying loans.''.

SEC. 134. CLARIFICATION OF OWNER'S RIGHT TO PREPAY.

(a) PREPAYMENT RIGHT.—Notwithstanding section 211 of the Housing and Community Development Act of 1987 or section 221 of the Housing and Community Development Act of 1987 (as in effect pursuant to section 604(c) of the Cranston-Gonzalez National Affordable Housing Act), subject to subsection (b), with respect to any project that is eligible low-income housing (as that term is defined in section 229 of the Housing and Community Development Act of 1987)—

(1) the owner of the project may prepay, and the mortgagee may accept prepayment of, the mortgage on the project, and

(2) the owner may request voluntary termination of a mortgage insurance contract with respect to such project and the contract may be terminated notwithstanding any requirements under sections 229 and 250 of the National Housing Act.

(b) CONDITIONS.—Any prepayment of a mortgage or termination of an insurance contract authorized under subsection (a) may be made—

(1) only to the extent that such prepayment or termination is consistent with the terms and conditions of the mortgage on or mortgage insurance contract for the project; and

(2) only if owner of the project involved agrees not to increase the rent charges for any dwelling unit in the project during the 60-day period beginning upon such prepayment or termination.

(c) APPLICABILITY.—This section shall apply only during the period beginning on October 1, 1997, and ending at the end of September 30, 1998.

Subtitle D—Reauthorization of Rural Housing Programs

SEC. 141. 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 years 1997, 1998, and 1999''.

SEC. 142. HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES AND OTHER LOW-INCOME PERSONS AND FAMILIES.

(a) 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, 1999''.

(b) 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 years 1997, 1998, and 1999''.

SEC. 143. 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 each of fiscal years 1998 and 1999 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 ''1999''.

Subtitle E—Reauthorization of National Flood Insurance Program

SEC. 151. PROGRAM EXPIRATION.

Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1999''.

SEC. 152. BORROWING AUTHORITY.

Section 1309(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)(2)) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1999''.

SEC. 153. EMERGENCY IMPLEMENTATION OF PROGRAM.

Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking ''September 30, 1996'' and inserting ''September 30, 1999''.

SEC. 154. AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.

Subsection (c) of section 1376 of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)) is amended to read as follows:

''(c) For studies under this title, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 and 1999, which shall remain available until expended.''.

Subtitle F—Native American Housing Assistance

SEC. 161. SUBSIDY LAYERING CERTIFICATION.

Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is amended—

(1) by striking ''certification by the Secretary'' and inserting ''certification by a recipient to the Secretary''; and

(2) by striking ''any housing project'' and inserting ''the housing project involved''.

SEC. 162. INCLUSION OF HOMEBUYER SELECTION POLICIES AND CRITERIA.

Section 207(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4137(b)) is amended—

(1) by striking ''TENANT SELECTION.—'' and inserting ''TENANT AND HOMEBUYER SELECTION.—'';

(2) in the matter preceding paragraph (1), by inserting ''and homebuyer'' after ''tenant''; and

(3) in paragraph (3)(A), by inserting ''and homebuyers'' after ''tenants''.

SEC. 163. REPAYMENT OF GRANT AMOUNTS FOR VIOLATION OF AFFORDABLE HOUSING REQUIREMENT.

Section 209 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4139) is amended by striking ''section 205(2)'' and inserting ''section 205(a)(2)''.

SEC. 164. UNITED STATES HOUSING ACT OF 1937.

(a) IN GENERAL.—Section 501(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (110 Stat. 4042) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively.

(b) UNITED STATES HOUSING ACT OF 1937.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended by striking subsection (h).

SEC. 165. MISCELLANEOUS.

(a) DEFINITION OF INDIAN AREAS.—Section 4(10) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(10)) is amended to read as follows:

''(10) INDIAN AREA.—The term 'Indian area' means the area within which an Indian tribe or a tribally designated housing entity, as authorized by 1 or more Indian tribes, provides assistance under this Act for affordable housing.''.

(b) CROSS-REFERENCE.—Section 4(12)(C)(i)(II) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(12)(C)(i)(II)) is amended by striking ''section 107'' and inserting ''section 705''.

(c) CLARIFICATION OF CERTAIN EXEMPTIONS.—Section 101(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(c)) is amended by adding at the end the following: ''This subsection applies only to rental dwelling units (other than lease-purchase dwelling units) developed under—

''(1) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

''(2) this Act.''.

(d) APPLICABILITY.—Section 101(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(d)(1)) is amended by inserting before the semicolon at the end the following: '', except that this paragraph only applies to rental dwelling units (other than lease-purchase dwelling units) developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or under this Act''.

(e) SUBMISSION OF INDIAN HOUSING PLAN.—Section 102(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112(a)) is amended—

(1) in paragraph (1), by inserting ''(A)'' after ''(1)'';

(2) in paragraph (1)(A), as so designated by paragraph (1) of this subsection, by adding ''or'' at the end;

(3) by striking ''(2)'' and inserting ''(B)''; and

(4) by striking ''(3)'' and inserting ''(2)''.

(f) CLARIFICATION.—Section 103(c)(3) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4113(c)(3)) is amended by inserting ''not'' before ''prohibited''.

(g) APPLICABILITY OF PROVISIONS OF CIVIL RIGHTS.—Section 201(b)(5) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131(b)(5)) is amended—

(1) by striking ''Indian tribes'' and inserting ''federally recognized tribes and the tribally designated housing entities of those tribes''; and

(2) by striking ''under this subsection'' and inserting ''under this Act''.

(h) ELIGIBILITY.—Section 205(a)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4135(a)(1)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end; and

(2) by striking subparagraph (B) and inserting the following:

''(B) in the case of a contract to purchase existing housing, is made available for purchase only by a family that is a low-income family at the time of purchase;

''(C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; and

''(D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and''.

(i) TENANT SELECTION.—Section 207(b)(3)(B) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4137(b)(3)(B)) is amended by striking ''of any rejected applicant of the grounds for any rejection'' and inserting ''to any rejected applicant of that rejection and the grounds for that rejection''.

(j) AVAILABILITY OF RECORDS.—Section 208 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4138) is amended—

(1) in subsection (a), by striking ''paragraph (2)'' and inserting ''subsection (b)''; and

(2) in subsection (b), by striking ''paragraph (1)'' and inserting ''subsection (a)''.

(k) IHP REQUIREMENT.—Section 184(b)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(b)(2)) is amended by striking ''that is under the jurisdiction of an Indian tribe'' and all that follows before the period at the end.

(l) AUTHORIZATION OF APPROPRIATIONS.—Section 184(i)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(5)(C)) is amended by striking ''note'' and inserting ''not''.

(m) ENVIRONMENTAL REVIEW UNDER THE INDIAN HOUSING LOAN GUARANTEE PROGRAM.—Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following:

''(k) ENVIRONMENTAL REVIEW.—For purposes of environmental, review, decision-making, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law that furthers the purposes of that Act, a loan guarantee under this section shall—

''(1) be treated as a grant under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

''(2) be subject to the regulations promulgated by the Secretary to carry out section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4115).''.

(n) PUBLIC AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—Title IV of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161 et seq.) is amended by adding at the end the following:

''SEC. 408. PUBLIC AVAILABILITY OF INFORMATION.

''Each recipient shall make any housing plan, policy, or annual report prepared by the recipient available to the general public.''.

(2) TABLE OF CONTENTS.—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents by inserting after the item relating to section 407 the following:

''Sec. 408. Public availability of information.''.

(o) NON-FEDERAL FUNDS.—Section 520(l)(5)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(l)(5)(B)) is amended by striking ''and Indian housing authorities'' and inserting ''and units of general local government''.

(p) INELIGIBILITY OF INDIAN TRIBES.—Section 460 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899h–1) is amended by striking ''fiscal year 1997'' and inserting ''fiscal year 1998''.

(q) INDIAN HOUSING EARLY CHILDHOOD DEVELOPMENT PROGRAM.—

(1) REPEAL.—Section 518 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–11 note) is repealed.

(2) TECHNICAL CORRECTION.—

(A) IN GENERAL.—Section 501(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (110 Stat. 4042), and the amendment made by that section, is repealed.

(B) APPLICABILITY.—Section 519 of Cranston-Gonzalez National Affordable Housing

Act (42 U.S.C. 1437a–1) shall be applied and administered as if section 501(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (104 Stat. 4042) had not been enacted.

(3) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall be construed to have taken effect on October 26, 1996.

(r) TRIBAL ELIGIBILITY UNDER THE DRUG ELIMINATION PROGRAM.—The Public and Assisted Housing Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended—

(1) in section 5123, by inserting ''Indian tribes,'' after ''tribally designated housing entities,'';

(2) in section 5124(a)(7), by inserting '', Indian tribe,'' after ''agency'';

(3) in section 5125(a), by inserting ''Indian tribe,'' after ''entity,''; and

(4) in section 5126, by adding at the end the following:

''(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).''.

(s) REFERENCE IN THE PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT OF 1990.—Section 5126(4)(D) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11905(4)(D)) is amended by inserting ''of 1996'' before the period.

TITLE II—HOMEOWNERS PROTECTION ACT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Homeowners Protection Act of 1997''.

SEC. 202. DEFINITIONS.

In this title, the following definitions shall apply:

(1) ADJUSTABLE RATE MORTGAGE.—The term ''adjustable rate mortgage'' means a residential mortgage that has an interest rate that is subject to change.

(2) CANCELLATION DATE.—The term ''cancellation date'' means—

(A) with respect to a fixed rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, reaches 80 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, first reaches 80 percent of the original value of the property securing the loan.

(3) FIXED RATE MORTGAGE.—The term ''fixed rate mortgage'' means a residential mortgage that has an interest rate that is not subject to change.

(4) GOOD PAYMENT HISTORY.—The term ''good payment history'' means, with respect to a mortgagor, that the mortgagor has not—

(A) made a mortgage payment that was 60 days or longer past due during the 12-month period beginning 24 months before the date on which the mortgage reaches the cancellation date; or

(B) made a mortgage payment that was 30 days or longer past due during the 12-month period preceding the date on which the mortgage reaches the cancellation date.

(5) INITIAL AMORTIZATION SCHEDULE.—The term ''initial amortization schedule'' means a schedule established at the time at which a residential mortgage transaction is consummated with respect to a fixed rate mortgage, showing—

(A) the amount of principal and interest that is due at regular intervals to retire the principal balance and accrued interest over the amortization period of the loan; and

(B) the unpaid principal balance of the loan after each scheduled payment is made.

(6) MORTGAGE INSURANCE.—The term ''mortgage insurance'' means insurance, including any mortgage guaranty insurance, against the nonpayment of, or default on, an individual mortgage or loan involved in a residential mortgage transaction.

(7) MORTGAGE INSURER.—The term ''mortgage insurer'' means a provider of private mortgage insurance, as described in this title, that is authorized to transact such business in the State in which the provider is transacting such business.

(8) MORTGAGEE.—The term ''mortgagee'' means the holder of a residential mortgage at the time at which that mortgage transaction is consummated.

(9) MORTGAGOR.—The term ''mortgagor'' means the original borrower under a residential mortgage or his or her successors or assignees.

(10) ORIGINAL VALUE.—The term ''original value'', with respect to a residential mortgage, means the lesser of the sales price of the property securing the mortgage, as reflected in the contract, or the appraised value at the time at which the subject residential mortgage transaction was consummated.

(11) PRIVATE MORTGAGE INSURANCE.—The term ''private mortgage insurance'' means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(12) RESIDENTIAL MORTGAGE.—The term ''residential mortgage'' means a mortgage, loan, or other evidence of a security interest created with respect to a single-family dwelling that is the primary residence of the mortgagor.

(13) RESIDENTIAL MORTGAGE TRANSACTION.—The term ''residential mortgage transaction'' means a transaction consummated on or after the date that is 1 year after the date of enactment of this Act, in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against a single-family dwelling that is the primary residence of the mortgagor to finance the acquisition, initial construction, or refinancing of that dwelling.

(14) SERVICER.—The term ''servicer'' has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974, with respect to a residential mortgage.

(15) SINGLE-FAMILY DWELLING.—The term ''single-family dwelling'' means a residence consisting of 1 family dwelling unit.

(16) TERMINATION DATE.—The term ''termination date'' means—

(A) with respect to a fixed rate mortgage, the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan.

SEC. 203. TERMINATION OF PRIVATE MORTGAGE INSURANCE.

(a) BORROWER CANCELLATION.—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall be canceled on the cancellation date, if the mortgagor—

(1) submits a request in writing to the servicer that cancellation be initiated;

(2) has a good payment history with respect to the residential mortgage; and

(3) has satisfied any requirement of the holder of the mortgage (as of the date of a request under paragraph (1)) for—

(A) evidence (of a type established in advance and made known to the mortgagor by the servicer promptly upon receipt of a request under paragraph (1)) that the value of the property securing the mortgage has not declined below the original value of the property; and

(B) certification that the equity of the mortgagor in the residence securing the mortgage is unencumbered by a subordinate lien.

(b) AUTOMATIC TERMINATION.—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall terminate with respect to payments for that mortgage insurance made by the mortgagor—

(1) on the termination date if, on that date, the mortgagor is current on the payments required by the terms of the residential mortgage transaction; or

(2) on the date after the termination date on which the mortgagor becomes current on the payments required by the terms of the residential mortgage transaction.

(c) FINAL TERMINATION.—If a requirement for private mortgage insurance is not otherwise canceled or terminated in accordance with subsection (a) or (b), in no case may such a requirement be imposed beyond the first day of the month immediately following the date that is the midpoint of the amortization period of the loan if the mortgagor is current on the payments required by the terms of the mortgage.

(d) NO FURTHER PAYMENTS.—No payments or premiums may be required from the mortgagor in connection with a private mortgage insurance requirement terminated or canceled under this section—

(1) in the case of cancellation under subsection (a), more than 30 days after the later of—

(A) the date on which a request under subsection (a)(1) is received; or

(B) the date on which the mortgagor satisfies any evidence and certification requirements under subsection (a)(3);

(2) in the case of termination under subsection (b), more than 30 days after the termination date or the date referred to in subsection (b)(2), as applicable; and

(3) in the case of termination under subsection (c), more than 30 days after the final termination date established under that subsection.

(e) RETURN OF UNEARNED PREMIUMS.—

(1) IN GENERAL.—Not later than 45 days after the termination or cancellation of a private mortgage insurance requirement under this section, all unearned premiums for private mortgage insurance shall be returned to the mortgagor by the servicer.

(2) TRANSFER OF FUNDS TO SERVICER.—Not later than 30 days after notification by the servicer of termination or cancellation of private mortgage insurance under this title with respect to a mortgagor, a mortgage insurer that is in possession of any unearned premiums of that mortgagor shall transfer

to the servicer of the subject mortgage an amount equal to the amount of the unearned premiums for repayment in accordance with paragraph (1).

(f) EXCEPTIONS FOR HIGH RISK LOANS.—

(1) IN GENERAL.—The termination and cancellation provisions in subsections (a) and (b) do not apply to any residential mortgage or mortgage transaction that, at the time at which the residential mortgage transaction is consummated, has high risks associated with the extension of the loan—

(A) as determined in accordance with guidelines established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, in the case of a mortgage loan with an original principal balance that does not exceed the applicable annual conforming loan limit for the secondary market established pursuant to section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, so as to require the imposition or continuation of a private mortgage insurance requirement beyond the terms specified in subsection (a) or (b) of this section; or

(B) as determined by the mortgagee in the case of any other mortgage, except that termination shall occur—

(i) with respect to a fixed rate mortgage, on the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan; and

(ii) with respect to an adjustable rate mortgage, on the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan.

(2) TERMINATION AT MIDPOINT.—A private mortgage insurance requirement in connection with a residential mortgage or mortgage transaction described in paragraph (1) shall terminate in accordance with subsection (c).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require a mortgage or mortgage transaction described in paragraph (1)(A) to be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

SEC. 204. DISCLOSURE REQUIREMENTS.

(a) DISCLOSURES FOR NEW MORTGAGES AT TIME OF TRANSACTION.—

(1) DISCLOSURES FOR NON-EXEMPTED TRANSACTIONS.—In any case in which private mortgage insurance is required in connection with a residential mortgage or mortgage transaction (other than a mortgage or mortgage transaction described in section 203(f)(1)), at the time at which the transaction is consummated, the mortgagee shall provide to the mortgagor—

(A) if the transaction relates to a fixed rate mortgage—

(i) a written initial amortization schedule; and

(ii) written notice—

(I) that the mortgagor may cancel the requirement in accordance with section 203(a) of this Act indicating the date on which the mortgagor may request cancellation, based solely on the initial amortization schedule;

(II) that the mortgagor may request cancellation in accordance with section 203(a) of this Act earlier than provided for in the initial amortization schedule, based on actual payments;

(III) that the requirement for private mortgage insurance will automatically terminate on the termination date in accordance with section 203(b) of this Act, and what that termination date is with respect to that mortgage; and

(IV) that there are exemptions to the right to cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 203(f) of this Act, and whether such an exemption applies at that time to that transaction; and

(B) if the transaction relates to an adjustable rate mortgage, a written notice that—

(i) the mortgagor may cancel the requirement in accordance with section 203(a) of this Act on the cancellation date, and that the servicer will notify the mortgagor when the cancellation date is reached;

(ii) the requirement for private mortgage insurance will automatically terminate on the termination date, and that on the termination date, the mortgagor will be notified of the termination or that the requirement will be terminated as soon as the mortgagor is current on loan payments; and

(iii) there are exemptions to the right of cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 203(f) of this Act, and whether such an exemption applies at that time to that transaction.

(2) DISCLOSURES FOR EXCEPTED TRANSACTIONS.—In the case of a mortgage or mortgage transaction described in section 203(f)(1), at the time at which the transaction is consummated, the mortgagee shall provide written notice to the mortgagor that in no case may private mortgage insurance be required beyond the date that is the midpoint of the amortization period of the loan, if the mortgagor is current on payments required by the terms of the residential mortgage.

(3) ANNUAL DISCLOSURES.—If private mortgage insurance is required in connection with a residential mortgage transaction, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(A) the rights of the mortgagor under this title to cancellation or termination of the private mortgage insurance requirement; and

(B) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(4) APPLICABILITY.—Paragraphs (1) through (3) shall apply with respect to each residential mortgage transaction consummated on or after the date that is 1 year after the date of enactment of this Act.

(b) DISCLOSURES FOR EXISTING MORTGAGES.—If private mortgage insurance was required in connection with a residential mortgage entered into at any time before the effective date of this title, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(1) that the private mortgage insurance may, under certain circumstances, be canceled by the mortgagor (with the consent of the mortgagee or in accordance with applicable State law); and

(2) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(c) INCLUSION IN OTHER ANNUAL NOTICES.—The information and disclosures required under subsection (b) and paragraphs (1)(B) and (3) of subsection (a) may be provided on the annual disclosure relating to the escrow account made as required under the Real Estate Settlement Procedures Act of 1974, or as part of the annual disclosure of interest payments made pursuant to Internal Revenue Service regulations, and on a form promulgated by the Internal Revenue Service for that purpose.

(d) STANDARDIZED FORMS.—The mortgagee or servicer may use standardized forms for the provision of disclosures required under this section.

SEC. 205. NOTIFICATION UPON CANCELLATION OR TERMINATION.

(a) IN GENERAL.—Not later than 30 days after the date of cancellation or termination of a private mortgage insurance requirement in accordance with this title, the servicer shall notify the mortgagor in writing—

(1) that the private mortgage insurance has terminated and that the mortgagor no longer has private mortgage insurance; and

(2) that no further premiums, payments, or other fees shall be due or payable by the mortgagor in connection with the private mortgage insurance.

(b) NOTICE OF GROUNDS.—

(1) IN GENERAL.—If a servicer determines that a mortgage did not meet the requirements for termination or cancellation of private mortgage insurance under subsection (a) or (b) of section 203, the servicer shall provide written notice to the mortgagor of the grounds relied on to make the determination (including the results of any appraisal used to make the determination).

(2) TIMING.—Notice required by paragraph (1) shall be provided—

(A) with respect to cancellation of private mortgage insurance under section 203(a), not later than 30 days after the later of—

(i) the date on which a request is received under section 203(a)(1); or

(ii) the date on which the mortgagor satisfies any evidence and certification requirements under section 203(a)(3); and

(B) with respect to termination of private mortgage insurance under section 203(b), not later than 30 days after the scheduled termination date.

SEC. 206. DISCLOSURE REQUIREMENTS FOR LENDER PAID MORTGAGE INSURANCE.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''borrower paid mortgage insurance'' means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by the borrower;

(2) the term ''lender paid mortgage insurance'' means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by a person other than the borrower; and

(3) the term ''loan commitment'' means a prospective mortgagee's written confirmation of its approval, including any applicable closing conditions, of the application of a prospective mortgagor for a residential mortgage loan.

(b) EXCLUSION.—Sections 203 through 205 do not apply in the case of lender paid mortgage insurance.

(c) NOTICES TO MORTGAGOR.—In the case of lender paid mortgage insurance that is required in connection with a residential mortgage or a residential mortgage transaction—

(1) not later than the date on which a loan commitment is made for the residential mortgage transaction, the prospective mortgagee shall provide to the prospective mortgagor a written notice—

(A) that lender paid mortgage insurance differs from borrower paid mortgage insurance, in that lender paid mortgage insurance may not be canceled by the mortgagor, while borrower paid mortgage insurance could be cancelable by the mortgagor in accordance with section 203(a) of this Act, and could automatically terminate on the termination date in accordance with section 203(b) of this Act;

(B) that lender paid mortgage insurance—

(i) usually results in a residential mortgage having a higher interest rate than it would in the case of borrower paid mortgage insurance; and

(ii) terminates only when the residential mortgage is refinanced, paid off, or otherwise terminated;

(C) that lender paid mortgage insurance and borrower paid mortgage insurance both have benefits and disadvantages, including a generic analysis of the differing costs and benefits of a residential mortgage in the case lender paid mortgage insurance versus borrower paid mortgage insurance over a 10-year period, assuming prevailing interest and property appreciation rates; and

(D) that lender paid mortgage insurance may be tax-deductible for purposes of Federal income taxes, if the mortgagor itemizes expenses for that purpose; and

(2) not later than 30 days after the termination date that would apply in the case of borrower paid mortgage insurance, the servicer shall provide to the mortgagor a written notice indicating that the mortgagor may wish to review financing options that could eliminate the requirement for private mortgage insurance in connection with the residential mortgage.

(d) STANDARD FORMS.—The servicer of a residential mortgage may develop and use a standardized form or forms for the provision of notices to the mortgagor, as required under subsection (c).

SEC. 207. FEES FOR DISCLOSURES.

No fee or other cost may be imposed on any mortgagor with respect to the provision of any notice or information to the mortgagor pursuant to this title.

SEC. 208. CIVIL LIABILITY.

(a) IN GENERAL.—Any servicer, mortgagee, or mortgage insurer that violates a provision of this title shall be liable to each mortgagor to whom the violation relates for—

(1) in the case of an action by an individual, or a class action in which the liable party is not subject to section 210, any actual damages sustained by the mortgagor as a result of the violation, including interest (at a rate determined by the court) on the amount of actual damages, accruing from the date on which the violation commences;

(2) in the case of—

(A) an action by an individual, such statutory damages as the court may allow, not to exceed $2,000; and

(B) in the case of a class action—

(i) in which the liable party is subject to section 210, such amount as the court may allow, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of $500,000 or 1 percent of the net worth of the liable party, as determined by the court; and

(ii) in which the liable party is not subject to section 210, such amount as the court may allow, not to exceed $1000 as to each member of the class, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of $500,000 or 1 percent of the gross revenues of the liable party, as determined by the court;

(3) costs of the action; and

(4) reasonable attorney fees, as determined by the court.

(b) TIMING OF ACTIONS.—No action may be brought by a mortgagor under subsection (a) later than 2 years after the date of the discovery of the violation that is the subject of the action.

(c) LIMITATIONS ON LIABILITY.—

(1) IN GENERAL.—With respect to a residential mortgage transaction, the failure of a servicer to comply with the requirements of this title due to the failure of a mortgage insurer or a mortgagee to comply with the requirements of this title, shall not be construed to be a violation of this title by the servicer.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to impose any additional requirement or liability on a mortgage insurer, a mortgagee, or a holder of a residential mortgage.

SEC. 209. EFFECT ON OTHER LAWS AND AGREEMENTS.

(a) EFFECT ON STATE LAW.—

(1) IN GENERAL.—With respect to any residential mortgage or residential mortgage transaction consummated after the effective date of this title, and except as provided in paragraph (2), the provisions of this title shall supersede any provisions of the law of any State relating to requirements for obtaining or maintaining private mortgage insurance in connection with residential mortgage transactions, cancellation or automatic termination of such private mortgage insurance, any disclosure of information addressed by this title, and any other matter specifically addressed by this title.

(2) CONTINUED APPLICATION OF CERTAIN PROVISIONS.—This title does not supersede any provision of the law of a State in effect on or before September 1, 1989, pertaining to the termination of private mortgage insurance or other mortgage guaranty insurance, to the extent that such law requires termination of such insurance at an earlier date or when a lower mortgage loan principal balance is achieved than as provided in this title.

(b) EFFECT ON OTHER AGREEMENTS.—The provisions of this title shall supersede any conflicting provision contained in any agreement relating to the servicing of a residential mortgage loan entered into by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any private investor or note holder (or any successors thereto).

SEC. 210. ENFORCEMENT.

(a) IN GENERAL.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of that Act);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act; and

(3) part C of title V of the Farm Credit Act of 1971 (12 U.S.C. 2261 et seq.), by the Farm Credit Administration in the case of an institution that is a member of the Farm Credit System.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS TITLE TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on such agency by law.

(c) ENFORCEMENT AND REIMBURSEMENT.—In carrying out its enforcement activities under this section, each agency referred to in subsection (a) shall—

(1) notify the mortgagee or servicer of any failure of the mortgagee or servicer to comply with 1 or more provisions of this title;

(2) with respect to each such failure to comply, require the mortgagee or servicer, as applicable, to correct the account of the mortgagor to reflect the date on which the mortgage insurance should have been canceled or terminated under this title; and

(3) require the mortgagee or servicer, as applicable, to reimburse the mortgagor in an amount equal to the total unearned premiums paid by the mortgagor after the date on which the obligation to pay those premiums ceased under this title.

SEC. 211. CONSTRUCTION.

Nothing in this title shall be construed to impose any requirement for private mortgage insurance in connection with a residential mortgage transaction.

SEC. 212. EFFECTIVE DATE.

This title shall become effective 1 year after the date of enactment of this Act.

TITLE III—ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

SEC. 301. ABOLISHMENT.

(a) IN GENERAL.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the Thrift Depositor Protection Oversight Board established under section 21A of the Federal Home Loan Bank Act (hereafter in this section referred to as the ''Oversight Board'') is hereby abolished.

(b) DISPOSITION OF AFFAIRS.—

(1) POWER OF CHAIRPERSON.—Effective on the date of enactment of this Act, the Chairperson of the Oversight Board (or the designee of the Chairperson) may exercise on behalf of the Oversight Board any power of the Oversight Board necessary to settle and conclude the affairs of the Oversight Board.

(2) AVAILABILITY OF FUNDS.—Funds available to the Oversight Board shall be available to the Chairperson of the Oversight Board to pay expenses incurred in carrying out paragraph (1).

(c) SAVINGS PROVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this section shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Oversight Board, the Resolution Trust Corporation, or any other person that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the abolishment of the Oversight Board in accordance with subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board with respect to any function of the Oversight Board shall abate by reason of the enactment of this section.

(3) LIABILITIES.—

(A) IN GENERAL.—All liabilities arising out of the operation of the Oversight Board during the period beginning on August 9, 1989, and the date that is 3 months after the date of enactment of this Act shall remain the direct liabilities of the United States.

(B) NO SUBSTITUTION.—The Secretary of the Treasury shall not be substituted for the Oversight Board as a party to any action or proceeding referred to in subparagraph (A).

(4) CONTINUATIONS OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS PERTAINING TO THE RESOLUTION FUNDING CORPORATION.—

(A) IN GENERAL.—All orders, resolutions, determinations, and regulations regarding the Resolution Funding Corporation shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations until modified, terminated, set aside, or superseded in accordance with applicable law if such orders, resolutions, determinations, or regulations—

(i) have been issued, made, and prescribed, or allowed to become effective by the Oversight Board, or by a court of competent jurisdiction, in the performance of functions transferred by this section; and

(ii) are in effect at the end of the 3-month period beginning on the date of enactment of this section.

(B) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS BEFORE TRANSFER.—Before the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the United States.

(C) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS AFTER TRANSFER.—On and after the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the Secretary of the Treasury.

(d) TRANSFER OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUTHORITY AND DUTIES OF RESOLUTION FUNDING CORPORATION TO SECRETARY OF THE TREASURY.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the authority and duties of the Oversight Board under sections 21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act are transferred to the Secretary of the Treasury (or the designee of the Secretary).

(e) MEMBERSHIP OF THE AFFORDABLE HOUSING ADVISORY BOARD.—Effective on the date of enactment of this Act, section 14(b)(2) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(f) TIME OF MEETINGS OF THE AFFORDABLE HOUSING ADVISORY BOARD.—

(1) IN GENERAL.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(A) by striking ''4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or'' and inserting ''2 times a year or at the request of''; and

(B) by striking the second sentence.

(2) CLERICAL AMENDMENT.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended, in the subparagraph heading, by striking ''AND LOCATION''.

Amend the title so as to read: ''An Act to amend the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage, to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes.''.

THE FAA RESEARCH, ENGINEERING, AND DEVELOPMENT AUTHORIZATION ACT OF 1997

MCCAIN (AND HOLLINGS) AMENDMENT NO. 1638

Mr. LOTT (for Mr. MCCAIN, for himself and Mr. HOLLINGS) proposed an amendment to the bill (H.R. 1271) to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 through 2000, and for other purposes; as follows:

On page 12, line 10, strike ''$229,673,000,'' and insert ''$226,800,000,''.

On page 12, line 25, strike ''$56,045,000'' and insert ''$53,759,000''.

On page 13, line 1, strike ''$27,137,000'' and insert ''$26,550,000''.

On page 13, line 6, strike ''activities.'.'' and insert ''activities; and''.

On page 13, between lines 6 and 7, insert the following:

''(5) for fiscal year 1999, $229,673,000.''.

On page 13, line 17, strike ''leges'' and insert ''leges, including Historically Black Colleges and Universities and Hispanic Serving Institutions,''.

On page 15, strike lines 11 through 17.

On page 15, line 18, strike ''**SEC. 5. NOTICE OF REPROGRAMMING.**'' and insert ''**SEC. 4. NOTICES.**''.

On page 15, line 19, insert ''(a) REPROGRAMMING.—'' before ''If''.

On page 16, between lines 2 and 3, insert the following:

(b) NOTICE OF REORGANIZATION.—The Administrator of the Federal Aviation Administration shall provide notice to the Committees on Science, Transportation and Infrastructure, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 30 days before any major reorganization (as determined by the Administrator) of any program of the Federal Aviation Administration for which funds are authorized by this Act.

On page 16, line 3, strike ''**SEC. 6.**'' and insert ''**SEC. 5.**''.

Amend the title so as to read ''A Bill to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 and 1999, and for other purposes.''.

THE OCEANS ACT OF 1997

SNOWE (AND HOLLINGS) AMENDMENT NO. 1639

Mr. NICKLES (for Ms. SNOWE, for herself and Mr. HOLLINGS) proposed an amendment to the bill (S. 1213) to establish a National Ocean Council, a Commission on Ocean Policy, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Oceans Act of 1997''.

SEC. 2. CONGRESSIONAL FINDINGS; PURPOSE AND OBJECTIVES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Covering more than two-thirds of the Earth's surface, the oceans and Great Lakes play a critical role in the global water cycle and in regulating climate, sustain a large part of Earth's biodiversity, provide an important source of food and a wealth of other natural products, act as a frontier to scientific exploration, are critical to national security, and provide a vital means of transportation. The coasts, transition between land and open ocean, are regions of remarkably high biological productivity, contribute more than 30 percent of the Gross Domestic Product, and are of considerable importance for recreation, waste disposal, and mineral exploration.

(2) Ocean and coastal resources are susceptible to change as a direct and indirect result of human activities, and such changes can significantly impact the ability of the oceans and Great Lakes to provide the benefits upon which the Nation depends. Changes in ocean and coastal processes could affect global climate patterns, marine productivity and biodiversity, environmental quality, national security, economic competitiveness, availability of energy, vulnerability to natural hazards, and transportation safety and efficiency.

(3) Ocean and coastal resources are not infinite, and human pressure on them is increasing. One half of the Nation's population lives within 50 miles of the coast, ocean and coastal resources once considered inexhaustible are now threatened with depletion, and if population trends continue as expected, pressure on and conflicting demands for ocean and coastal resources will increase further as will vulnerability to coastal hazards.

(4) Marine transportation is key to United States participation in the global economy and to the wide range of activities carried out in ocean and coastal regions. Inland waterway and ports are the link between marine activities in ocean and coastal regions and the supporting transportation infrastructure ashore. International trade is expected to triple by 2020. The increase has the potential to outgrow—

(A) the capabilities of the marine transportation system to ensure safety; and

(B) the existing capacity of ports and waterways.

(5) Marine technologies hold tremendous promise for expanding the range and increasing the utility of products from the oceans and Great Lakes, improving the stewardship of ocean and coastal resources, and contributing to business and manufacturing innovations and the creation of new jobs.

(6) Research has uncovered the link between oceanic and atmospheric processes and improved understanding of world climate patterns and forecasts. Important new advances, including availability of military technology, have made feasible the exploration of large areas of the ocean which were inaccessible several years ago. In designating 1998 as ''The Year of the Ocean'', the United Nations highlights the value of increasing our knowledge of the oceans.

(7) It has been 30 years since the Commission on Marine Science, Engineering, and Resources (known as the Stratton Commission) conducted a comprehensive examination of

ocean and coastal activities that led to enactment of major legislation and the establishment of key oceanic and atmospheric institutions.

(8) A review of existing activities is essential to respond to the changes that have occurred over the past three decades and to develop an effective new policy for the twenty-first century to conserve and use, in a sustainable manner, ocean and coastal resources, protect the marine environment, explore ocean frontiers, protect human safety, and create marine technologies and economic opportunities.

(9) Changes in United States laws and policies since the Stratton Commission, such as the enactment of the Coastal Zone Management Act, have increased the role of the States in the management of ocean and coastal resources.

(10) While significant Federal and State ocean and coastal programs are underway, those Federal programs would benefit from a coherent national ocean and coastal policy that reflects the need for cost-effective allocation of fiscal resources, improved interagency coordination, and strengthened partnerships with State, private, and international entities engaged in ocean and coastal activities.

(b) PURPOSE AND OBJECTIVES.—The purpose of this Act is to develop and maintain, consistent with the obligations of the United States under international law, a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities that will assist the Nation in meeting the following objectives:

(1) The protection of life and property against natural and manmade hazards.

(2) Responsible stewardship, including use, of fishery resources and other ocean and coastal resources.

(3) The protection of the marine environment and prevention of marine pollution.

(4) The enhancement of marine-related commerce and transportation, the resolution of conflicts among users of the marine environment, and the engagement of the private sector in innovative approaches for sustainable use of marine resources.

(5) The expansion of human knowledge of the marine environment including the role of the oceans in climate and global environmental change and the advancement of education and training in fields related to ocean and coastal activities.

(6) The continued investment in and development and improvement of the capabilities, performance, use, and efficiency of technologies for use in ocean and coastal activities.

(7) Close cooperation among all government agencies and departments to ensure—

(A) coherent regulation of ocean and coastal activities;

(B) availability and appropriate allocation of Federal funding, personnel, facilities, and equipment for such activities; and

(C) cost-effective and efficient operation of Federal departments, agencies, and programs involved in ocean and coastal activities.

(8) The enhancement of partnerships with State and local governments with respect to oceans and coastal activities, including the management of ocean and coastal resources and identification of appropriate opportunities for policy-making and decision-making at the State and local level.

(9) The preservation of the role of the United States as a leader in ocean and coastal activities, and, when it is in the national interest, the cooperation by the United States with other nations and international organizations in ocean and coastal activities.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term ''Commission'' means the Commission on Ocean Policy.

(2) The term ''Council'' means the National Ocean Council.

(3) The term ''marine environment'' includes—

(A) the oceans, including coastal and offshore waters and the adjacent shore lands;

(B) the continental shelf;

(C) the Great Lakes; and

(D) the ocean and coastal resources thereof.

(4) The term ''ocean and coastal activities'' includes activities related to oceanography, fisheries and other ocean and coastal resource stewardship and use, marine aquaculture, energy and mineral resource extraction, marine transportation, recreation and tourism, waste management, pollution mitigation and prevention, and natural hazard reduction.

(5) The term ''ocean and coastal resource'' means, with respect to the oceans, coasts, and Great Lakes, any living or non-living natural resource (including all forms of animal and plant life found in the marine environment, habitat, biodiversity, water quality, minerals, oil, and gas) and any significant historic, cultural or aesthetic resource.

(6) The term ''oceanography'' means scientific exploration, including marine scientific research, engineering, mapping, surveying, monitoring, assessment, and information management, of the oceans, coasts, and Great Lakes—

(A) to describe and advance understanding of—

(i) the role of the oceans, coasts and Great Lakes in weather and climate, natural hazards, and the processes that regulate the marine environment; and

(ii) the manner in which such role, processes, and environment are affected by human actions;

(B) for the conservation, management and sustainable use of living and nonliving resources; and

(C) to develop and implement new technologies related to sustainable use of the marine environment.

SEC. 4. NATIONAL OCEAN AND COASTAL POLICY.

(a) EXECUTIVE RESPONSIBILITIES.—The President, with the assistance of the Council and the advice of the Commission, shall—

(1) develop and maintain a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities consistent with obligations of the United States under international law; and

(2) with regard to Federal agencies and departments—

(A) review significant ocean and coastal activities, including plans, priorities, accomplishments, and infrastructure requirements;

(B) plan and implement an integrated and cost-effective program of ocean and coastal activities including, but not limited to, oceanography, stewardship of ocean and coastal resources, protection of the marine environment, maritime transportation safety and efficiency, marine recreation and tourism, and marine aspects of weather, climate, and natural hazards;

(C) designate responsibility for funding and conducting ocean and coastal activities; and

(D) ensure cooperation and resolve differences arising from laws and regulations applicable to ocean and coastal activities which result in conflicts among participants in such activities.

(b) COOPERATION AND CONSULTATION.—In carrying out responsibilities under this Act, the President may use such staff, interagency, and advisory arrangements as the President finds necessary and appropriate and shall consult with non-Federal organizations and individuals involved in ocean and coastal activities.

SEC. 5. NATIONAL OCEAN COUNCIL.

(a) ESTABLISHMENT.—The President shall establish a National Ocean Council and appoint a Chairman from among its members. The Council shall consist of—

(1) the Secretary of Commerce;

(2) the Secretary of Defense;

(3) the Secretary of State;

(4) the Secretary of Transportation;

(5) the Secretary of the Interior;

(6) the Attorney General;

(7) the Administrator of the Environmental Protection Agency;

(8) the Director of the National Science Foundation;

(9) the Director of the Office of Science and Technology Policy;

(10) the Chairman of the Council on Environmental Quality;

(11) the Chairman of the National Economic Council;

(12) the Director of the Office of Management and Budget; and

(13) such other Federal officers and officials as the President considers appropriate.

(b) ADMINISTRATION.—

(1) The President or the Chairman of the Council may from time to time designate one of the members of the Council to preside over meetings of the Council during the absence or unavailability of such Chairman.

(2) Each member of the Council may designate an officer of his or her agency or department appointed with the advice and consent of the Senate to serve on the Council as an alternate in the event of the unavoidable absence of such member.

(3) An executive secretary shall be appointed by the Chairman of the Council, with the approval of the Council. The executive secretary shall be a permanent employee of one of the agencies or departments represented on the Council and shall remain in the employ of such agency or department.

(4) For the purpose of carrying out the functions of the Council, each Federal agency or department represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(A) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

(B) undertaking, upon request of the Chairman of the Council, such special studies for the Council as are necessary to carry out its functions.

(5) The Chairman of the Council shall have the authority to make personnel decisions regarding any employees detailed to the Council.

(c) FUNCTIONS.—The Council shall—

(1) assist the Commission in completing its report under section 6;

(2) serve as the forum for developing an implementation plan for a national ocean and coastal policy and program, taking into consideration the Commission report;

(3) improve coordination and cooperation, and eliminate duplication, among Federal agencies and departments with respect to ocean and coastal activities; and

(4) assist the President in the preparation of the first report required by section 7(a).

(d) SUNSET.—The Council shall cease to exist one year after the Commission has submitted its final report under section 6(h).

(e) SAVINGS PROVISION.—

(1) Council activities are not intended to supersede or interfere with other Executive Branch mechanisms and responsibilities.

(2) Nothing in this Act has any effect on the authority or responsibility of any Federal officer or agency under any other Federal law.

SEC. 6. COMMISSION ON OCEAN POLICY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The President shall, within 90 days after the enactment of this Act, establish a Commission on Ocean Policy. The Commission shall be composed of 16 members including individuals drawn from State and local governments, industry, academic and technical institutions, and public interest organizations involved with ocean and coastal activities. Members shall be appointed for the life of the Commission as follows:

(A) 4 shall be appointed by the President of the United States.

(B) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Majority Leader of the Senate in consultation with the Chairman of the Senate Committee on Commerce, Science, and Transportation.

(C) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Speaker of the House of Representatives in consultation with the Chairman of the House Committee on Resources.

(D) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the Senate in consultation with the Ranking Member of the Senate Committee on Commerce, Science, and Transportation.

(E) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the House in consultation with the Ranking Member of the House Committee on Resources.

(2) FIRST MEETING.—The Commission shall hold its first meeting within 30 days after it is established.

(3) CHAIRMAN.—The President shall select a Chairman from among such 16 members. Before selecting the Chairman, the President is requested to consult with the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

(4) ADVISORY MEMBERS.—In addition, the Commission shall have 4 Members of Congress, who shall serve as advisory members. One of the advisory members shall be appointed by the Speaker of the House of Representatives. One of the advisory members shall be appointed by the minority leader of the House of Representatives. One of the advisory members shall be appointed by the majority leader of the Senate. One of the advisory members shall be appointed by the minority leader of the Senate. The advisory members shall not participate, except in an advisory capacity, in the formulation of the findings and recommendations of the Commission.

(b) FINDINGS AND RECOMMENDATIONS.—The Commission shall report to the President and the Congress on a comprehensive national ocean and coastal policy to carry out the purpose and objectives of this Act. In developing the findings and recommendations of the report, the Commission shall—

(1) review and suggest any necessary modifications to United States laws, regulations, and practices necessary to define and implement such policy, consistent with the obligations of the United States under international law;

(2) assess the condition and adequacy of investment in existing and planned facilities and equipment associated with ocean and coastal activities including human resources, vessels, computers, satellites, and other appropriate technologies and platforms;

(3) review existing and planned ocean and coastal activities of Federal agencies and departments, assess the contribution of such activities to development of an integrated long-range program for oceanography, ocean and coastal resource management, and protection of the marine environment, and identify any such activities in need of reform to improve efficiency and effectiveness;

(4) examine and suggest mechanisms to address the interrelationships among ocean and coastal activities, the legal and regulatory framework in which they occur, and their inter-connected and cumulative effects on the marine environment, ocean and coastal resources, and marine productivity and biodiversity;

(5) review the known and anticipated demands for ocean and coastal resources, including an examination of opportunities and limitations with respect to the use of ocean and coastal resources within the exclusive economic zone, projected impacts in coastal areas, and the adequacy of existing efforts to manage such use and minimize user conflicts;

(6) evaluate relationships among Federal, State, and local governments and the private sector for planning and carrying out ocean and coastal activities and address the most appropriate division of responsibility for such activities;

(7) identify opportunities for the development of or investment in new products, technologies, or markets that could contribute to the objectives of this Act;

(8) consider the relationship of the ocean and coastal policy of the United States to the United Nations Convention on the Law of the Sea and other international agreements, and actions available to the United States to effect collaborations between the United States and other nations, including the development of cooperative international programs for oceanography, protection of the marine environment, and ocean and coastal resource management; and

(9) engage in any other preparatory work deemed necessary to carry out the duties of the Commission pursuant to this Act.

(c) DUTIES OF CHAIRMAN.—In carrying out the provisions of this subsection, the Chairman of the Commission shall be responsible for—

(1) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and

(2) the use and expenditures of funds available to the Commission.

(d) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation is not precluded by a State, local, or Native American tribal government position, shall be compensated at a rate equal to the daily equivalent of the annual rate payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(e) STAFF.—

(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director who is knowledgeable in administrative management and ocean and coastal policy and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) The executive director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairman may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for GS–15, step 7, of the General Schedule under section 5332 of such title.

(3) Upon request of the Chairman of the Commission, after consulting with the head of the Federal agency concerned, the head of any Federal Agency shall detail appropriate personnel of the agency to the Commission to assist the Commission in carrying out its functions under this Act. Federal Government employees detailed to the Commission shall serve without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(4) The Commission may accept and use the services of volunteers serving without compensation, and to reimburse volunteers for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, a volunteer under this section may not be considered to be an employee of the United States for any purpose.

(5) To the extent that funds are available, and subject to such rules as may be prescribed by the Commission, the executive director of the Commission may procure the temporary and intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate payable for GS–15, step 7, of the General Schedule under section 5332 of title 5, United States Code.

(f) ADMINISTRATION.—

(1) All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(c) of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statement on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(3) Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(g) COOPERATION WITH OTHER FEDERAL ENTITIES.—

(1) The Commission is authorized to secure directly from any Federal agency or department any information it deems necessary to carry out its functions under this Act. Each such agency or department is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information to the Commission, upon the request of the Chairman of the Commission.

(2) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) The General Services Administration shall provide to the Commission on a reimbursable basis the administrative support services that the Commission may request.

(4) The Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals to assist the Commission in carrying out its duties. The Commission may purchase and contract without regard to section 303 of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8 of the Small Business Act (15 U.S.C. 637), pertaining to competition and publication requirements, and may arrange for printing without regard to the provisions of title 44, United States Code. The contracting authority of the Commission under this Act is effective only to the extent that appropriations are available for contracting purposes.

(h) REPORT.—The Commission shall submit to the President, via the Council, and to the Congress not later than 18 months after the establishment of the Commission, a final report of its findings and recommendations. The Commission shall cease to exist 30 days after it has submitted its final report.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to support the activities of the Commission a total of up to $6,000,000 for fiscal years 1998 and 1999. Any sums appropriated shall remain available without fiscal year limitation until the Commission ceases to exist.

SEC. 7. REPORT AND BUDGET COORDINATION.

(a) BIENNIAL REPORT.—Beginning in January, 1999, the President shall transmit to the Congress biennially a report, which shall include—

(1) a comprehensive description of the ocean and coastal activities (and budgets) and related accomplishments of all agencies and departments of the United States during the preceding two fiscal years; and

(2) an evaluation of such activities (and budgets) and accomplishments in terms of the purpose and objectives of this Act. Reports made under this section shall contain such recommendations for legislation as the President may consider necessary or desirable.

(b) BUDGET COORDINATION.—

(1) Each year the President shall provide general guidance to each Federal agency or department involved in ocean or coastal activities with respect to the preparation of requests for appropriations.

(2) Each agency or department involved in such activities shall include with its annual request for appropriations a report which—

(A) identifies significant elements of the proposed agency or department budget relating to ocean and coastal activities; and

(B) specifies how each such element contributes to the implementation of a national ocean and coastal policy.

SEC. 8. REPEAL OF 1966 STATUTE.

The Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) is repealed.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Monday, December 15, 1997 at 1:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

ADDITIONAL STATEMENTS

VETERANS DAY 1997

• Mr. KERRY. Mr. President, today I wish to pay deep respect and tribute to the men and women of the United States who have made significant sacrifices in the defense of the freedoms and democratic principles upon which our country was founded and to which we pledge our allegiance today. For every American, Veterans Day holds a special meaning because it is a time to remember those veterans who have died, thank those who are living, and reflect on the honorable contributions that each has made to our country. People of all ages and backgrounds marched in parades across the United States on November 11 honoring veterans whom often they have never met, nor seen, nor heard about—and who too often have received little or no recognition for their unwavering devotion to our country.

As a veteran of the Vietnam war, I share a memory with many others who have served in the U.S. Armed Forces and ascribe a special meaning to this day. We remember the faces of those who served with us and the experiences of those who served beside us. History will remember the cause, but we will remember the people.

I am proud to have served my country and feel blessed that I was lucky enough to return to my family and friends. To those brave men and women who gave their lives for our country or who have survived but paid in human suffering, we collectively owe a great debt and appropriate recognition and respect. We must never forget their service, or their sacrifice, nor must we forget their significance.•

HELP FOR LOCALITIES

• Mr. ABRAHAM. Mr. President, one of the final items to be approved by the Senate for inclusion in the fiscal year 1998 Senate Interior appropriations bill was my amendment to raise the level of funding for the Payment in Lieu of Taxes program, or PILT. I want to thank the Interior appropriations chairman, Senator GORTON, for his assistance and consideration of this important amendment. I also wish to thank my cosponsors, Senators LEVIN, HATCH, CAMPBELL, SMITH, and Dominici. In particular, I am most appreciative of Senator LEVIN, his hard work and cooperation in securing the support of the subcommittee's ranking member was crucial.

Every year, Mr. President, the Federal Government increases the acreage it owns, particularly in the form of national parks. This provides increased opportunities for Americans to enjoy the great outdoors. At the same time, however, it also increases costs for law enforcement, search and rescue and fire departments for literally thousands of small towns throughout our Nation.

Federal land purchases often permanently remove a critical source of income from local communities. PILT payments, or ''Payments in Lieu of Taxes,'' are made to counties and local communities which contain certain federally owned lands that cannot be taxed or, in many cases, developed by the local governments. PILT moneys are often the only means that counties have to pay for police protection and garbage collection and storage as well as funding for one time capital investments for new schools, hospitals, and jails. They also are vital for offsetting costs incurred by counties for services provided users of public lands.

Unfortunately, Mr. President, and despite the very real benefits local communities provide, every year more Federal lands are taken off of county tax rolls, while PILT payments remain stagnant and well below the level authorized by Congress.

That is why my colleagues and I took action to reverse this trend, and why I am so pleased that the Senate has agreed to raise PILT payments to $124 million. I believe this increase has significance beyond the amount approved because it demonstrates that the Congress is beginning to understand the dilemma faced by a significant number of our localities, struggling as they are with increasing costs and a shrinking tax base.

During the conference of the House and Senate, Members agreed to a compromise funding level of $20 million. I suspect that the increased Senate amount was partially responsible for the conferees agreeing to an amount $7 million above the House level. These extra funds will provide crucial help to local communities strapped for funds as they seek to tend to their own citizens' needs. It has been a long time coming and I applaud the Senate for agreeing to support this critical program.•

CONFIRMATION OF RODNEY W. SIPPEL TO BE A UNITED STATES JUDGE FOR THE EASTERN AND WESTERN DISTRICT OF MISSOURI

• Mr. LEAHY. Mr. President, I am delighted that the Senate unanimously confirmed Rodney W. Sippel to serve as

a U.S. District Court Judge for the Eastern and Western Districts of Missouri.

Rodney Sippel is a uniquely well-qualified nominee, with a wealth of experience in the practice of law and in public service. He has years of litigation experience at the law firm of Husch & Eppenberger in St. Louis, MO. He is also a dedicated public servant, having served in the office of our former colleague, Senator Thomas Eagleton, and as an administrative assistant to the House Democratic leader, RICHARD GEPHARDT.

The American Bar Association found Mr. Sippel to be qualified for this appointment and his nomination enjoys the support of both Senators from Missouri.

The President nominated Rodney Sippel on May 15, 1997. After several months of inaction, the Judiciary Committee finally held a hearing on his nomination on October 28 and the committee favorably and unanimously reported his nomination to the full Senate on November 6.

I congratulate Rodney Sippel and his family on his confirmation. I look forward to his service as a U.S. district court judge.

I would like to note that the nomination process experienced by Rodney Sippel is a common one in this 105th Congress. It is an experience of unnecessary delay. After his nomination languished for months in the Judiciary Committee, the majority finally focused on Rodney Sippel and he was unanimously confirmed. I am not sure why it took so long for the majority to confirm this well-qualified nominee, but I am glad that they finally realized that he will be an outstanding Federal judge.

CONFIRMATION OF BRUCE C. KAUFFMAN TO BE A U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

● Mr. LEAHY. Mr. President, I am delighted that the Senate confirmed Bruce C. Kauffman to be a U.S. district judge for the eastern district of Pennsylvania. Mr. Kauffman is a well-qualified nominee.

The nominee has decades of legal experience in the private practice of law at the firm of Dilworth, Paxson, Kalish & Kauffman in Philadelphia. He has also served the public interest as a justice of the Supreme Court of Pennsylvania, the Commonwealth's highest appellate court, and as a member of numerous task forces and commissions benefiting the city of Philadelphia. The American Bar Association has found him to be well-qualified for this appointment.

We first received Mr. Kauffman's nomination on July 31, 1997. He had a confirmation hearing on September 5. He was unanimously reported by the committee on November 6. With the strong support of Senator SPECTER, this nomination has moved expeditiously through the committee and the Senate.

I congratulate Mr. Kauffman and his family and look forward to his service on the district court.●

CONFIRMATION OF MARTIN J. JENKINS TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

● Mr. LEAHY. Mr. President, I am delighted that the Senate confirmed Judge Martin J. Jenkins to be a U.S. District Judge for the Northern District of California.

The American Bar Association unanimously found Judge Jenkins to be well-qualified, its highest rating, for this appointment. He has extensive trial experience as a deputy district attorney for Alameda County, trial attorney with the Department of Justice's Civil Rights Division, and civil litigator with Pacific Bell. He also has extensive judicial experience as a former municipal court judge and in his current position as Alameda County Superior Court judge. His nomination enjoys the strong support of Senator FEINSTEIN and Senator BOXER.

The Judiciary Committee unanimously reported his nomination to the Senate on November 6, 1997. With the confirmation of Charles Breyer, the Northern District of California now has 2 vacancies out of 14 judgeships and desperately needs Judge Jenkins to help manage its growing backlog of cases.

I am delighted for Judge Jenkins and his distinguished family that he was confirmed. He will make a fine judge.●

TRIBUTE TO HERBERT COHEN

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to a good friend and great Vermonter, Herbert Cohen. Herbert died unexpectedly on July 27, 1997 at the age of 67.

A respected entrepreneur in Rutland, Herbert owned and operated Vermont Contract Furnishings along with his wife Sandy. His business focused on interior designs for the condominium and vacation home markets. Accordingly, he was selected to provide these services for the 1980 Winter Olympic Games in Lake Placid.

Herbert was a member of the board for Rutland's Regional Medical Center and was selected to act as president for the local Chamber of Commerce. In recognition of his outstanding achievements and dedication to the people of Vermont, Herbert was named ''Citizen of the Year'' in 1987.

Herbert played an integral role in Rutland's revitalization. Through his efforts in restoring one of the areas most prominent storefronts, Herbert has left a lasting impression upon residents and visitors alike that will be slow to fade.

Mr. President, I would like to extend my condolences to his family and friends.●

ELEVEN CONNECTICUT ORGANIZATIONS, COMPANIES, AND MUNICIPALITIES NAMED TO WOMEN'S BUREAU HONOR ROLL

● Mr. DODD. Mr. President, I rise today to congratulate 11 organizations, companies, and municipalities in my home State of Connecticut for being named to the honor roll of the Women's Bureau of the U.S. Department of Labor. This honor roll recognizes entities across the country that have made a commitment to working women and to a family-friendly workplace. Most Americans go to work each day worried about their health care, affordable and reliable child care, living wages, and job protection in times of family crisis. These organizations are trying to help alleviate some of these worries and should be applauded for their efforts.

The 11 honorees from Connecticut are: Aetna Inc., the city of New Britain, the Connecticut Women's Education and Legal Fund, DCC/The Dependent Care Connection Inc., the Entrepreneurial Center at Hartford College for Women, GTE Service Corp., ITT Hartford, Phoenix Home Life Mutual Insurance Co., United Illuminating Co., United Technologies Corp., and the Urban League of southwestern Connecticut.

These entities are helping working women to achieve better pay and benefits, to strike a better balance of work and family responsibilities, and to gain more respect and opportunity on the job. For example, flexible work schedules and interactive retirement planning software allow more women to pick up a sick child from school or help plan for their and their families' financial future. Other programs instituted by these family-friendly Connecticut organizations include discounted on-site day care, at-home offices, extensive prenatal care, and seminars to assist families with college planning.

The American work force is changing. When The Department of Labor Women's Bureau was created by Congress in 1920, there were only 8.25 million working women—less than 20 percent of our Nation's work force. Today, nearly 60 million women work for pay—almost 50 percent of our Nation's work force. Not only are more women working, but more women must work to make ends meet for their families. America's work force and families are facing new challenges and it is organizations like these 11 that deserve to be applauded for making innovative and constructive efforts to make their workplaces more family-friendly.

As we applaud these honor roll members we must also remember that there are challenges that still need to be addressed in our changing workplace. By and large, American working women still have difficulty finding affordable child care, paid sick leave, and unpaid family leave during an extended family crisis. And let us not forget that women continue to face discrimination in hiring and promotion, as well as underpayment in comparisons to men with the same or similar credentials.

Though we have made some progress, such as passing the Family and Medical Leave Act, it is obvious we still have challenges to overcome. So, let's applaud the companies, organizations, and municipalities on the Labor Department's honor roll for working women. And let's continue to struggle toward solutions to make every workplace a family-friendly workplace.●

AFRICAN GROWTH AND OPPORTUNITY ACT

● Mr. ABRAHAM. Mr. President, I rise today to cosponsor the African Growth and Opportunity Act, introduced by my colleague, Senator LUGAR. I do this because I believe greater trade and economic development is in the interest of sub-Saharan Africa, and in the interest of the United States.

For too long, Mr. President, our policy toward the nations of sub-Saharan Africa has been based largely on a series of bilateral donor-recipient aid relationships. While this policy has produced some notable successes in terms of staving off starvation, it also has spawned an inappropriate vision of the United States as patron to literally dozens of independent nations, while fostering a debilitating dependence on foreign assistance. As a consequence, this policy has in fact stood in the way of economic growth, self-reliance and political stability for the vast majority of people in this region.

The African Growth and Opportunity Act will establish a new relationship between the United States and the nations of sub-Saharan Africa. It will promote economic growth through private sector activity and trade incentives, fostering a mutually beneficial relationship and encouraging economic and political reforms in the interests of the peoples of sub-Saharan Africa.

The bill directs the President to develop a plan to establish a United States-Sub-Saharan Africa Free-Trade Area to stimulate trade. It also eliminates quotas on textiles and apparel from Kenya and Mauritius, contingent on these countries' adopting a visa system to guard against transshipment.

In addition, this legislation would establish an economic forum to facilitate trade discussions and work with the private sector to develop an investment agenda. USAID moneys would not be effected in any way. However, OPIC would be instructed to create a privately funded, $150 million equity fund and a $500 million infrastructure fund for Africa. Finally, the bill mandates that one member of the board of directors of the Export-Import Bank and OPIC have extensive private investment sector experience in Africa.

Benefits from these initiatives would be available to any nation in the sub-Saharan region instituting serious economic and political reforms.

Mr. President, the provisions of this legislation in effect would create a free-trade zone in sub-Saharan Africa. They would promote increased trade, increased privatization, increased democracy, and increased prosperity for the people of the region. By ending the current patron-client relationship, and substituting for it an equal partnership among independent nations, we can benefit everyone involved.

I urge my colleagues to support this important, forward-looking legislation.●

TRIBUTE TO KATHY LACEY

● Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to Kathy Lacey, my deputy legislative director, who I regret will retire at the end of December after serving California for 27 years as a staff member in the U.S. Senate.

Kathy came to Washington, DC 27 years ago having studied at Vassar College and after graduate work at the University of Southern California. Her graduate work at USC was in Asian studies and Chinese language. She knew other friends who had used their studies by going to work for the Federal Government and she thought she would find similar opportunities. Instead, former Senator Alan Cranston hired Kathy and she went to work using her love and knowledge of California.

When Kathy describes her service in the U.S. Senate to younger staff just starting their careers, she says that her effort was always on behalf of the people of California. Her work ranged from trying to assist farmers with export of their crops, to helping cities get their funds to build sewage treatment plants, to fixing levees or to analyzing the science of radioactive waste, pests, and pesticides, or endangered species.

But what gives Kathy the most satisfaction is the work which she has done, both with me and with Alan Cranston, to protect California's special places. Legislation she has worked on over her 27-year career has protected almost 12 million acres of wilderness in California. More than half of that acreage was part of the Desert Protection Act. I could not have successfully gotten that bill passed without Kathy's knowledge and continuous work.

But Kathy was also involved in the creation of the Santa Monica Mountains National Recreation Area, establishment of Channel Island National Park, expansion of Redwood National Park, protection of Mineral King through its addition to Sequoia National Park, establishment of the Mono Basin National Forest Scenic Area, preservation of the Tuolumne River, enactment of the Smith River bill which protected watersheds and old growth in the Six Rivers National Forest, and designation of almost all of the wilderness in California including the 1.8-million-acre California wilderness bill.

Kathy grew up in Pasadena. Her parents had come to California as teenagers. Her mother and brother still live there. Because Kathy chose to come to Washington, DC, and work for California, she has made a lasting contribution to her State.

Kathy plans to leave the Congress and have new adventures with her husband, Cal, who has also recently retired. On behalf of everyone in California, I thank Kathy for her professional spirit which was important to me from my first days in the U.S. Senate and I thank her for her dedicated example which has proved so significant to California.●

LABOR, HEALTH AND HUMAN SERVICES APPROPRIATIONS BILL

● Mr. SESSIONS. Mr. President, I would like to take a few minutes today in order to lay out my reasons for voting against the Fiscal Year 1998 Labor, Health and Human Services, and Education appropriations bill.

Mr. President, when I was running for the Senate last year, there were two campaign promises that I made to the people of the great State of Alabama. First, I promised that I would work to reign in wasteful Washington spending and secondly, that I would work to bring Alabama values into the Washington public-policy debate. It was for these two simple reasons that I felt compelled to cast my vote against the Labor, HHS appropriations bill.

The fiscal year 1998 Labor, HHS appropriations bill contained roughly $80 billion in spending for Washington social programs. This is an increase of roughly $6.2 billion from fiscal year 1997's bill. Now Mr. President, the average Alabamian, if they're lucky, sees a cost-of-living increase in their paycheck each year of around 2.8 percent. That's it, 2.8 percent. However, this bill increases Washington social spending by over 8 percent. That's an increase of almost three times the average Alabamian's yearly cost-of-living increase. That to me is unacceptable.

I have spent many long hours looking through the merits of many of these programs. We have many good programs, with a proven track record, that need to be funded and supported. But Mr. President, the Labor, HHS appropriations bill we voted on also contained many social programs that are unproven or just too costly. The taxpayers of America deserve to know that their hard earned tax dollars are spent wisely. If we continue to raise spending faster than our economic growth—faster than the cost of living—then we are in danger of returning to the old tax and spend mentality that has nearly bankrupted this country. With great reluctance, I must vote ''no.''

There were several other provisions missing from this bill which also compelled me to vote against it. First, my tobacco amendment, added to the bill by the Senate on September 10, which would have limited any tobacco attorney's fees and required that all such fees be made public for inspection prior to the passage of any global settlement, was stripped during negotiations

between the Senate and House of Representatives conference committee. These fees, in many cases, will be the largest fees in history and will be windfalls for these attorneys. These moneys would be better spent on health care for children.

Second, an education provision, which I strongly supported, authored by my good friend from Washington, Senator SLADE GORTON, was also stripped during the House-Senate conference negotiations. This amendment would have required the Secretary of Education to award certain funds appropriated for the Department of Education for kindergarten through grade 12 programs and activities directly to the local education agencies. This will allow them to use the funds for their greatest needs and reduce paperwork. I supported this amendment because I believe it is time to take control of our schools out of the hands of the well-intentioned individuals in Washington and instead put the control into the hands of the real experts—the teachers, principals, parents and the students of Alabama. Mr. President, this is another example of Government putting Washington values ahead of Alabama's values. The fundamental question is this: Will our children benefit more if Washington is in charge of their education or if their elected representatives are? Alabama values would support the local control of our schools while Washington values support the bureaucratic heavy handed federal control of our education system.

Mr. President, in closing, let me say plainly I support many of the programs and services found in this bill. It was my sincere hope to have been counted among its supporters on the Senate floor. However in this era when families are struggling to get by, we simply must begin the process of controlling the growth of Washington spending. That is why I have decided to vote ''no.''●

FAST-TRACK AUTHORITY

● Ms. SNOWE. Mr. President, I rise today to speak on a matter of utmost importance to our Nation—granting the President fast-track authority for global trade agreements for the next 5 years.

I have long opposed extending fast-track authority to the executive branch on the grounds that it removes all possibility of perfecting trade agreements which have wide-ranging impacts on many sectors of our economy. And nothing I have seen in recent history has changed my mind.

We are being asked to rubber stamp not just one agreement, but any trade agreement that may come along, whether in South America, Asia, or anywhere else in the world. We are contemplating letting bureaucrats and other unelected interests negotiate America's future in the new global economy. And if history is any indication, we would be making a grievous mistake.

Experience is a wonderful teacher—just look at NAFTA. What I have learned is that NAFTA has not been the job boon it was advertised to be; that the trade deficit has continued to explode under NAFTA, that too many good paying jobs have already been sacrificed on the altar of so-called fair trade, and that we have serious difficulties in enforcing the agreements we've already made.

That is not a particularly encouraging track record—certainly not one that should inspire us to hand over the trade agreement keys to the White House. To the contrary, it raises grave concerns as to where the administration wants to take the country in the new world of globalization.

That is why I believe the President is obliged to do more than just say that he needs fast-track authority. The gap between what he said would happen under NAFTA and what has actually happened makes it even more essential that he explain to us precisely how he would address the problems that already exist, and what his vision is for the future should he be granted such sweeping authority. Because frankly, the administration has not spelled out why it needs this authority, nor what it will mean for the Nation.

Unfortunately, I can venture a fairly good guess as to what it will mean, based on history. The chart behind me represents the U.S. international merchandise trade from 1947 until last year. For 25 out of the 27 years preceding fast-track authority in 1974, the United States ran a trade surplus. Then, after 1975, the bottom started falling out.

This sea of red ink behind me not only represents millions of dollars in deficit—over $190 billion last year ($191.2 billion)—but lost jobs and shattered lives. For each billion dollars in trade deficit, another 20,000 people are displaced from their jobs—according to the Foreign Trade Division of the Census Bureau, that number is approaching 3.8 million. Every $50,000 in trade deficit is one lost job.

We hear time and time again that enormous opportunities will be created for the American people through trade agreements the President can negotiate if he has fast-track authority. But if the agreements already negotiated are any indication, it's time to put the brakes on, not hit the accelerator. Because working Americans can't afford any more ''opportunities'' like this.

Right now, each week, the United States borrows from abroad or sells assets worth $3 billion to pay for our trade losses. All across the country, workers are taking cuts in pay—or worse, taking home pink slips. And we are left to wonder how trade agreements that had promised so much have delivered so little. Just look at the lessons of NAFTA.

NAFTA, we were told, would improve our trade deficit with Canada and Mexico. So what's the reality? Before NAFTA in 1993, we had a $1.7 billion surplus with Mexico. As of last year, it's now a $16.2 billion deficit. Before NAFTA we had a $10 billion trade deficit with Canada. After only 3 years of NAFTA, we had a $23 billion deficit. And during those 3 years under NAFTA, our combined merchandise trade deficits with Canada and Mexico have grown 433 percent, as indicated by this chart showing the tremendous downward turn taken after NAFTA.

We all know that, with trade agreements, there are winners and there are losers. But a quick review of the current NAFTA standings shows that, in sports terms, we are well below .500. The White House has claimed credit for 90,000 to 160,000 American jobs from NAFTA. Yet the Economic Policy Institute has issued a report that there are jobs losses in all 50 States because of NAFTA, more than 390,000 jobs eliminated since NAFTA took effect in 1994.

Considering our experience prior to 1994, we can ill afford these kind of results. An October EPI briefing paper states that in the 15 years preceding NAFTA the U.S. goods and services trade deficit eliminated a total of 2.4 million job opportunities, 2.2 million in the manufacturing sector alone. That means 83 percent of the total job decline was in the manufacturing sector.

For example, in my home State of Maine, between 1980 and the inception of NAFTA the Maine footwear industry—the largest in the Nation—lost over 9,000 jobs to countries like Mexico because our Government sat on its hands in spite of recommended action by the International Trade Commission. And in the past three years alone, there have been significant losses in the textile and shoe industries—over 8,000 people have lost their jobs. I have already witnessed too many hard-working people lose their livelihood for me to risk more American jobs.

I am unwilling to trade well-paying jobs with benefits for lower paying ones—but that's precisely what's happened under our ill-conceived trade agreements. As the trade deficit and globalization of U.S. industries have grown, more quality jobs have been lost to imports than have been gained in the lower paying sectors that are experiencing rapid export growth. Increased import shares have displaced almost twice as many high-paying, high-skill jobs than increased exports have created.

Of course, NAFTA has created some good jobs. But the fact that increased imports have caused a large trade deficit tell us that more high-paying jobs were lost than gained in the push for more trade.

Those deficits—and the path the United States is going down—are well illustrated by this chart which shows three roads that have diverged under the previous reign of fast-track authority, first instituted in 1974. Up to that point, Japanese, German, and United States merchandise trade was humming along essentially in balance.

Beginning almost at the start of 1975, however, we clearly see the United States plunging into deficit, while Germany and Japan both enjoy a trade surplus. To paraphrase Robert Frost, the road less traveled certainly has made all the difference—in this case, not for the better. In other words, under NAFTA as well as other previous trade agreements, there have been many more losers than winners.

So we must ask the President: How do you explain the job losses? How do you explain the trade deficit explosion? And what is it going to mean for the future of the country? The affect of NAFTA on these issues was seriously miscalculated—what assurances do we have that the administration's record will be better in the next 5 years, after multiple agreements?

We also need assurances that agreements negotiated will be agreements fulfilled. Unfortunately, after we have negotiated past trade agreements, I do not believe that the United States has aggressively pursued enforcement of the elimination of trade barriers with other countries, whether they are tariff or nontariff barriers. Why then would we grant this authority on a broad basis for whatever agreements may be negotiated by the administration?

The American Chamber of Commerce in Japan summed it up best in a study earlier this year concluding that ''it has often been more important for the two governments to reach agreements and declare victory than to undertake the difficult task of monitoring the agreements to ensure their implementation produces results.''

The bottom line is, long after the signing ceremonies and handshakes are forgotten, these trade agreements continue to affect lives on a daily basis. We must remember that our responsibilities don't end with the ratification of our trade agreements—they are just beginning.

Unfortunately, I can only assume from my personal experience that this is a lesson not yet learned by the administration. What other conclusion is there when the NAFTA clean-up plan for the United States-Mexico border has generated only 1 percent of the promised funding? What other conclusion is there when other countries continue to violate our laws by dumping goods in the United States below cost and because of extensive subsidies?

The Atlantic salmon farmers of Maine are a case in point. While we debate giving the President greater authority to close more trade deals, they have a case pending with the Department of Commerce because subsidized, low-priced Atlantic salmon from Chile—which provides at least 25 different subsidies to its producers, I might add—are being dumped in the United States. And while this situation remains unresolved, we have lost more than 50 percent of our salmon aquaculture industry in Maine, while Chile's imports into the United States have risen 75 percent and United States salmon prices have dropped by 30 percent.

So forgive me if I am at a complete loss as to how bringing Chile into NAFTA will create more and better jobs, and a higher standard of living for the hard working people of Maine.

And I could not talk about empty trade promises without mentioning Maine's potato industry. For years I have been raising the issue of an unfair trade barrier with Canada on bulk shipments of potatoes exported to Canada, a trade barrier that is in violation of the National Treatment Principle of article III, paragraph 4 of the GATT, to be specific. This provision requires that GATT/WTO member countries treat imported products the same as goods of local origin with respect to all laws, regulations, and requirements that affect the sale, purchase, transportation, distribution, and use of the goods.

In December of 1994, USTR's then Trade Representative Micky Kantor said he would be filing a trade case with the GATT–WTO to overturn Canada's policy of bulk easements. So what has happened so far? Nothing.

Almost 2 years later, in September of 1996, I wrote to President Clinton to express my belief that we had waited long enough, to urge him to live up to the USTR commitment, and to proceed with a trade case on bulk easements. One week later, USTR's Charlene Barshefsky called me to let me know that serious bilateral consultations on Canadian trade practices would begin.

These talks lead nowhere—in fact, the USTR then actually backtracked on filing a trade case. Two months later, the ITC was asked to investigate. They did, and in July of this year, issued a report, which stated, and I quote: ''Canadian regulations restrict imports of bulk shipments of fresh potatoes for processing or repacking.'' The report also stated, ''the United States maintains no such restrictions.''

So where are we today? Well, this past week, the U.S. Trade Representative once again promised that bilateral talks on bulk easements will begin no later than March 1998. It looks to me, as Yogi Berra once said, like deja vu all over again. Is this how the administration plans to handle enforcement for future trade agreements? Last week, the President asked the American people to give him the benefit of the doubt on fast track. I believe we need the benefit of enforcement of existing agreements first.

Where are our strict and mandatory enforcement provisions when our trading partners bring injury to our domestic workers? We need to provide the enforcement to ensure full reciprocity in market access and reduction of export subsidies—enforcement and oversight which, up until now, has been lacking.

Yet, we are told that specific concerns should be weighed against the broader economic, political and social aspects of NAFTA expansion. We are told that, overall, no major negative impact is expected if we expand the trade agreement with Chile—except of course for industries like fish, forestry, and fruit, all of which are important to the economic stability of my home State of Maine.

That is why I am not prepared to give up the right to seek assurances that these industries won't be decimated by a flawed trade agreement. The stakes are far too high for Congress to abrogate its responsibilities to the bureaucrats and special interests.

Free trade, as we have seen, doesn't work unless we have agreements that also provide for fair trade, and Congress must have the right to exercise its responsibility to ensure fair trade in each and every agreement that comes down the road. The Senate must be more than just a debating society for global trade issues that affect each and every one of us.

Our country negotiated trade agreements for nearly 200 years before fast-track authority was first granted in 1974, when trade was carved out for an exception unlike any other kind of treaty. We continue to negotiate treaties and agreements on everything from chemical weapons to extradition to tuna-dolphin without fast-track authority. And I have heard no rational explanation of why trade should be treated differently.

I certainly do not believe Congress should approve fast-track authority on the basis of fear that the United States will not have a seat at the trade bargaining table. There is no question we are living in an era dominated by global economics and trade, but at the same time we are an economic super power with an 8.3 trillion dollar economy and 203 million willing buyers—an attractive market to say the least.

I believe it would continue to be in the best interests of nations across the globe to negotiate with the United States—and those of us in Congress are committed to crafting mutually beneficial trade agreements. I think all of us in Congress understand full well the realities of trade as we approach the new millennium. We must also understand, however, that our trade record under fast track mandates that Congress have a strong voice in the process.

Mr. President, we are elected to deliberate and vote on the major issues of our day. Well, what could be more important than trade agreements that will directly affect hard working Americans and their families?

It is imperative that we not relinquish our right to have a voice in these agreements. I don't want to see a repeat of what happened during the summer of 1993 during negotiations on NAFTA side agreements, when United States negotiators, clearly under tremendous pressure to reach agreement on the outstanding issues and conclude the pact in time for a January vote, let Canada and Mexico off the hook on a number of different issues. We need better oversight, more discussion and debate, not less, because we stand at a very important juncture.

A poignant story out of New England illustrates where we are at the end of the 20th century, and points up the failures of past agreements.

Two years ago, Malden Mills, a textile mill in Massachusetts, burned to the ground, leaving thousands unemployed and putting 300 more jobs in jeopardy at the Bridgton Knitting Mills in Maine. In the wake of the fire, the mill's owner, Aaron Feuerstein, had several attractive choices, including rebuilding in another state or country with lower wages, anywhere from Texas to Thailand. Or he simply could have retired after four decades of running Malden Mills, founded by his grandfather more than 90 years ago.

Instead, last month, Mr. Feurstein opened a new, state-of-the-art textile mill, and brought 2,630 very grateful Americans back to work. And the rebuilding of the plant has become a symbol of loyalty to employees and to an entire community. Mr. Feuerstein's actions are admirable and all of America rightfully extended their appreciation to a man who chose the difficult path over the easy, and perhaps more profitable.

But let's step back for a moment and ask ourselves why this story became a national sensation. The sad fact is, it stood out so glaringly because it is the exception to the rule. The idea that American textile jobs would be kept in the United States when they could easily be shipped overseas is news because it hardly ever happens that way anymore.

Mr. President, I don't want to continue down this path, but I fear we will if we don't retain our congressional right to speak out against trade agreements that aren't in our best interest.

We have an obligation to all those who have already lost good jobs to bad trade agreements, and to all those who are in danger of becoming displaced in the future, to take the time to do it right. And the President has an obligation to fully explain how the wrongs of the past will be fixed, and why the future will be different. This he simply has not done.

We stand poised to begin a new era of prosperity in the global marketplace, but I do not believe that fast track is the way to get us there, I do not believe the President has made his case for this broad authority, and I urge my colleagues to defeat this fast-track legislation.●

ITALIAN HOSPITAL SOCIETY

● Mr. D'AMATO. Mr. President, it is with great pleasure that I note that the Italian Hospital Society is celebrating its 60th anniversary with a dinner and awards presentation on Sunday, November 16th. It is a most notable organization guided by compassion and philanthropy to assist the hospital and health services of Italian communities in New York.

This year's ceremonies will salute four eminent Italian-Americans who have brought the hopes of the Italian Hospital Society closer to reality. I am especially gratified that the committee honors a doctor, a businessman, a union leader, and the principle inspiration of my life, my mamma.

I can speak with particular knowledge and delight about Mamma, known to the public as Antoinette Cioffari D'Amato. She was born and grew up in Brooklyn, the daughter of Italian-American parents. In growing up as her child, I was able to see the qualities, character and enthusiasm for life and for family which the society salutes in her public life. It was she who inspired confidence, exercised discipline and demanded the pursuit of education. It was she who was the foundation for responsibility to the community and for civic involvement.

In her marriage of 61 years to my father, Armand, a teacher and son of Italian-American parents, she was a prototypical ''mamma''—cooking, cleaning, exhorting, reprimanding and loving her three children, Alfonse, Armand, and Joanne. During World War II, while my father was in the Army, she worked in a defense plant. As part of the emigration from Brooklyn to Long Island, the D'Amato family moved to Island Park where she and Dad continue to reside. Both still work in the insurance brokerage which has been the family business for over 60 years.

It was my political campaign for the U.S. Senate in 1980 that brought Mamma and her many talents to a wider audience. The advertisements she made for my campaign made me a winner. Ever since she has been unstinting as an active and enthusiastic citizen of New York. She has had a special interest in affordable housing services for older citizens through her membership on the board of the New York Foundation for Senior Citizens Inc. She is a television celebrity and the author of her own cookbook—''Cooking and Canning with Mamma D'Amato.''

I commend the Italian Hospital Society for the honor they give my mother for her public participation; but, for all the lessons and love of the private Antoinette Cioffari D'AMATO, only a hug and a kiss are the proper awards.

ERNESTO JOFRE

Ernesto Jofre, a native of Chile, came to the United States as a political refugee in 1976. He had spent the 3 previous years as a political prisoner of the Pinochet dictatorship. He joined Local 169 of the Amalgamated Clothing & Textile Workers' Union [ACTWU] as an auditor. Subsequently, he served Local 169 as an organizer, business agent, assistant manager, and then became manager and secretary-treasurer in 1993. He then became manager and secretary-treasurer of the Amalgamated Northeast Regional Joint Board of the Union of Needletrades, Industrial & Textile Employees [UNITE!] in 1994.

He is a vice president of the New Jersey Industrial Union Council, Member of the boards of directors of the Amalgamated Bank, the Jewish Labor Committee, and Americans for Democratic Action. He is plan administrator of the health and welfare funds and pension funds of Local 169, UNITE.

MARIO SPAGNUOLO, M.D.

Dr. Mario Spagnuolo was born in Naples in 1930; he graduated cum laude from the School of Medicine of the University of Naples. He trained in New York City at St. Claire's Hospital, the Irvington House Institute for Rheumatic Diseases and Bellevue Hospital. He was the director of the Irvington House Institute and associate professor of medicine at New York University Medical School.

He has written about 60 research papers in rheumatic diseases and several articles for textbooks. An editorial in the New England Journal of Medicine accompanying one of his papers, in January 1968, defined the paper as an extraordinary clinical investigation. The Journal reprinted one of his articles in 1996, 25 years after its publication in 1966, as a ''Classic in Medicine.''

He has practiced internal medicine in Yonkers for the last 25 years. He has been president of the Westchester Health Services Network. He practices at St. John's Riverside Hospital in Yonkers, where he was director of medicine and is now chief of the medical staff and a member of the board of trustees.

He is married to Kathryn Birchall Spagnuolo. They have four children—Mario, Sandra, Peter, and Eugene, a daughter-in-law—Linda, and three grandchildren—JoAnne, Matthew, and Stephanie.

VINCENT ZUCCARELLI

Vincent Zuccarelli was born in Mongrassano, a small town in Calabria, Italy. He started his education in the seminary and continued through the ''Liceo Classico.'' He was a private tutor of classical languages, Latin and Greek, for the students of the Middle and High Gymnasium School and was head of electoral office in his jurisdiction for 5 years.

Vincent came to the United States in 1958. In 1959, with his brothers, he engaged in and formed the food business in Mount Vernon, NY and Florida known as the Zuccarelli Brothers.

He has been married for 43 years to his wife Nella and has three sons: Mario, Fiore, and Joseph. Vincent and Nella also have six grandchildren: Vincent, Nelli, Marie, Juliana, Joey, and Danielle. He and his wife reside in Bronxville, NY.

He joined the Calabria Society in 1985, and has become an active and proud member. He is the first dinner-dance chairman of the Casa Dei Bambini Italiani Di New York. Mr. Zuccarelli is a member of the Council of the National Italian-American Foundation of Washington, DC, promoting education for the Italian-American values and traditions, and presently he is the NIAF Westchester County Coordinator.

The society continues the work of so many who came to this country as immigrants seeking freedom and a new life in America. But the bonds of kinship and of nationality were often the only protections in a society where intolerance and discrimination was the more likely welcome.

Having done so much over the past 60 years, the Italian Hospital Society has embarked on a new mission to create an Italian Home for the Aged as an independent assisted living facility where Italian-Americans and all elderly and infirm can receive the finest assistance. As they note in their mission statement: ''Unfortunately many of our own parents and grandparents have suffered isolation, depression and feelings of frustration due to cultural and language barriers. It is the mission of the Italian Hospital Society to ameliorate this difficult situation by providing a supervised facility that would be comforting and familiar to our aged community while providing for the physical as well as psychological welfare of these individuals.''

Mr. President, I ask to share with our colleagues the joy I have as son of one of the society's honorees and thank them for all the work that they do as a society and for the honors and respect they show toward their four honorees. They and the society inspire us all.●

CONFIRMATION OF JUDGE WILLIAM P. GREENE, JR., AS ASSOCIATE JUDGE, U.S. COURT OF VETERANS APPEALS

● Mr. ROCKEFELLER. Mr. President, I want to express my enormous delight that Judge William P. Greene, Jr., was recently confirmed for the position of associate judge for the U.S. Court of Veterans Appeals. Judge Greene brings to this job a lifetime of experience in the armed services and the law, and I believe President Clinton made an excellent choice in nominating him for this position.

Bill is extremely qualified to serve on the court. After graduating from Howard University School of Law in 1968, he joined the U.S. Army, where he proudly served for 25 years. Bill was an officer in the U.S. Army Judge Advocates Group Corps, and earned the Legion of Merit, Meritorious Service Medal, and Army Commendation Medal more than once.

Since 1993, Bill has served as an immigration judge for the Department of Justice in Baltimore. His leadership skills and ability to make clear, decisive, and just decisions have been well tried—and well proven.

In addition to his many other fine attributes, Bill has another that makes me especially proud of him—he is a native West Virginian. Bill was born in Bluefield, WV, and lived there until he was 10. He grew up in a military family and although they moved around to many different places, Bill always considered West Virginia home, and returned to West Virginia to attend West Virginia State College.

Bill's father was a veteran of World War II, Korea, and Vietnam, and was awarded the Silver Star for valor. So it is no surprise to me that Bill possesses an enormous sense of patriotism and pride in his country. The learning experience of growing up in a military family, combined with the experience of his own military career, will be enormously helpful to him in the job that lies ahead.

Everyone who has worked with me on the Senate Committee on Veterans' Affairs knows that I have long been a supporter of the court, so you can be sure that the quality of those who serve there is important to me. I am confident that Judge Greene will bring to the court the wisdom, judgment, and sensitivity so necessary for the court's vital work. In doing so, he will serve both our country and his fellow veterans well.●

ANNUAL MEETING OF THE COMMUNITY OPERATION ON TEMPORARY SHELTER

● Mr. JEFFORDS. Mr. President, on September 11, 1997, the Community on Temporary Shelter [COTS] held its annual meeting in Burlington, VT. The keynote speaker was Rita Markley, the director of COTS. Through her hard work and dedication to the needs of the homeless in Vermont stands as a glowing example of the value of community service. Her efforts have made a tremendous difference in the fight to end homelessness. It gives me great pleasure to submit, for the RECORD, the text of her remarks.

The text of the remarks follows:

[Sept. 11, 1997]

COMMITTEE ON TEMPORARY SHELTER ANNUAL MEETING—WHERE ARE WE NOW

(By Rita Markley)

Good morning and welcome to our annual meeting and volunteer recognition. This is the day when we thank all of you for giving your support to COTS. It's the time when we reflect on what that contribution means and why it matters.

I think it's too easy these days to forget that there was a time in this country, just 20–25 years ago, when being poor did not mean being homeless. There was a time when retail clerks, gas station attendants, waitresses could afford to pay for their rent and their groceries. Sometimes they even had enough left over for a Saturday afternoon movie. There was a time when the mentally ill were not left to wander America's streets without housing or services. And there was a time, just 15 years ago, when this community did not need a place like COTS because homelessness was something that only happened in big cities.

There have been enormous economic and social changes during the past 20 years that have displaced and uprooted millions of lives. Across the country and here in Vermont, the number of families and individuals without housing has increased tenfold during the past decade. Not since the Great Depression have there been so many homeless Americans. During the 1980's more than half a million units of low income housing were lost every year to condo conversion, arson and demolition. That rate of loss has been even higher during the 1990's. In Chittenden County, rents increased twice as fast as average income during the 80's. Not surprisingly, we now live in a time when homelessness has become so pervasive, so endemic, that we've all but forgotten that it was not always this way. One of my greatest fears is that we will come to accept that this is the way it must be.

It seems impossible that it was less than 20 years ago that we first began to see vast numbers of families all over this country sleeping in abandoned buildings or huddled in doorways because they couldn't afford a home. Back then, we were deeply shaken by the image of small children doing their homework by flashlight in the backseat of cars, the idea of anyone sleeping under cardboard boxes in public parks was astonishing. Our hearts were broken by newspaper stories of entire families scouring through trash dumpsters for scraps of food.

In 1997 the problem of homelessness in America remains one of our greatest challenges and yet we hear little or nothing about this issue in the national media. It's as if seeing those anguished images year after year has become so routine that we no longer see them at all. A few months ago my own sister told me that she was tired of seeing the homeless everywhere she went, that she couldn't look at their faces anymore because there were just too many of them, and it made her feel too sad. Either she forgot what I do every day or she wanted me to remind her that turning away from her own compassion means turning away from her humanity. My sister's reaction, though, is not uncommon. The homeless are increasingly invisible, untouchable. And they know it, they feel the distancing every time someone passes them by on the street without looking into their eyes. Even children living in desperate poverty know that they are regarded differently than cleaner, better dressed children. Here's a quote from a 15 year old girl that describes their experience poignantly:

''It's not like being in jail. It's more like being hidden. It's as if you have been put in a garage somewhere, where, if they don't have room for something but aren't sure if they should throw it out, they put it there in the garage where they don't need to think of it again. That's what it's like.'' (Kozol interview tapes)

Since the mid-1980's there has been a growing inclination to ignore, conceal and even punish those without homes. Many people in this country have moved from pity to impatience to outright contempt for the homeless.

In Fort Lauderdale, FL a city councilor proposed spraying trash containers with rat poison to discourage foraging by homeless families. ''The way to get rid of vermin,'' he said, ''is to cut off their food supply.'' (1986) In Santa Barbara, California grocers have sprinkled bleach on food discarded in their dumpsters.

In Chicago a homeless man was set ablaze while sleeping on a bench early one December morning. Rush hour commuters passed his charred body and possessions for four hours before anyone called the police.

In the first four months of 1992, 26 homeless people were set on fire while they were sleeping in New York City.

Who are these faceless, forsaken people that they would provoke such hateful acts? They are the poorest and most vulnerable members of our society: they are the elderly and families with children, they are Korean and Vietnam war veterans, they are the mentally ill who were left to fend for themselves on city streets, they are women and children fleeing from violence. I wonder

what kind of outcry there would have been if these acts of violence were inflicted on any other group but the most dispossessed.

I'd like to read a few letters by some Vermonters who lost their homes this year. They wrote these last April during the HUD crisis when many of our services would have been wiped out by unexpected cuts in funding.

''DEAR —— I'd never been homeless before this winter. I was out of work suddenly, lost my apartment and had to find a place to stay. . . I was at the Waystation. . . where I met some people who took care of each other, no matter our differences in lifestyles, skills, education or so called sanity. I have a college degree, many skills and I want to work and to give to the community. What I'm saying is that almost anyone could become homeless after some unexpected misfortune. Whether they can work or not they still need food and clothing, safe shelter, and people who care about them. . . I started to work again last week and my home will be open for anyone who needs a place to stay. I won't forget.''

''I lost the comfort of my affordable apartment when the building I lived in was closed because of fire. Also, 49 other families were displaced. The renovation of his building will take 18 to 24 months according to the owner. I have not had comfortable housing since that fire on September 7, 1996. My address was 127 St. Paul street where Vermont Transit was located. In the meantime, I'm number 1030 on the Burlington Housing Authority waiting list. What I miss most about my apartment was the peace of mind it gave me. Sincerely, Arlen D.''

I'm not sure if Arlen knows yet that only 5 of the renovated units will be rented at a rate anywhere near what he can afford.

We hear a lot these days about building strong communities, and God knows, we've heard no end of how it takes a village to raise a child. But what's missing in all of those discussions is the primacy, the importance and the function of home within any community or village. Think about what home means for all of us. It's the place we gather with family, it's where we sleep and dream and let down our guard at the end of the day. Home is where we keep and cherish what we love: our family, our books and music, whatever it is that we hold dear. It's the place we store all of the things we can't bear to part with: our high school graduation photos, our grandmother's wedding ring, a fifth grade award for spelling. Home is the one place where we can create a safe world within a larger more threatening world.

Losing a home means that you only keep what you can carry in your hands and on your back. It means leaving behind many of the belongings that remind you what has mattered in your life. It means losing connection with your own history. For children, not having a home is devastating; it means losing their pets, their storybooks and their favorite toys.

I cannot imagine the damage done when a child is torn from her home, when she sees her family's belongings piled up on the sidewalk, when she has no idea where she will sleep at night. I cannot imagine the pain a seven year old feels when he's called ''shelter trash'' by the other children in his school. What I do know is that without the foundation of home, any efforts to build meaningful community will fail. It's untenable to think a village can raise healthy children when its children are sleeping in emergency shelters and on the streets. I remember what a local businessman said to me once, a pretty conservative guy. He'd written a very large check for COTS. I asked him if he wanted his gift targeted to our job program which is popular with many of our business supporters. He said no, the shelters. He was surprised that I was surprised by his answer. If these folks don't have a place to sleep at night, he explained, a place to take a shower, they're not going to get a job or an apartment no matter what kind of training they have. They'll be trapped. First things first, he said.

This past year we helped put first things first for more that a thousand homeless families and individuals. They came to COTS because they had no place left to turn. They came from Burlington, Essex, Colchester, Shelburne, Ferrisburgh, Williston, Milton, Westford, Underhill, South Burlington and Jericho. And for every one of them COTS offered not just a refuge but a chance to reclaim their own lives. We provided voc counseling, job placement services, budgeting assistance, unremitting encouragement, and workshops on everything from nutrition to conflict resolution. For the children, we made certain that every child at our shelter had a brand new backpack, fresh notebooks and pencils for school.

None of the work we did, none of the achievements, would be possible without all of you gathered here today. You volunteer for our phonathon, and donate expert legal, financial and human resource advise to COTS. You answer the phones, spend time with the children at our shelter, and repair our computers. You provide us with graphics and design work that we could never otherwise afford. And you bring us brownies and cookies and flowers because you know the work we do is sometimes heartbreaking.

During the HUD crisis this spring, you came forward with calls, letters, and connections. I want especially to thank Gretchen Morse who was my shrewd political advisor and moral support during the worst days I've ever had in the 5 years I've worked at COTS. I am deeply grateful to Lucy Samara who traveled to Montpelier, alerted the entire religious community about the crisis, and then worked the phones every night like a seasoned politician. She was extraordinary. It terrifies me to think what could have happened without her leadership and initiative. I'd like to thank Barbara Snelling for her eloquent support at the statehouse. And thank you to Doug Racine and the entire Chittenden delegation with special thanks to Jan Backus and Helen Reihle. I am also very grateful to Con Hogan for his advocacy within the Dean Administration. And most of all, I want to thank Senator Leahy for standing up to HUD. I deeply appreciate all of the business owners, the religious leaders, our friends up at UVM who called or wrote on our behalf. Finally, I want to thank those of you without homes who had the courage to put your stories on paper.

Someone from Senator Leahy's staff told me that it was astounding what a diverse range of people called to voice their concerns about COTS. She said it was the most unlikely array of people she could possibly imagine. I told her to come to a COTS walkathon if she wanted to see unlikely combinations of people. This year we had Trey Anastasio from the band Phish walking beside a big deal lawyer from Green Mountain Power and they were walking just a few feet ahead of 4 Sisters of Mercy, one of whom was chatting with a liberal progressive or maybe and anarchist who was walking just in front of a conservative businessman who was strolling along with a recovering alcoholic who stayed at COTS Waystation 5 years ago. Heading up the rear was former governor Tom Salmon and leading the walk were Barbara Snelling and Patrick Leahy. How is this possible?

I believe that when you give your time and support to COTS, you are doing far more than writing a check or working on whatever task is at hand. I believe that what you are really doing is taking a stand, a stand against indifference. When you support COTS you are holding firm with us in the unwavering conviction that every human being has value; and that no one should be discarded or left behind (or set on fire) just because they are poor. When you give your time to COTS, when you help ensure that there is shelter and support for those who have nothing, you reaffirm humanity. That's a tremendous gift to give. And I thank you.●

DR. DAVID SATCHER

● Mr. GLENN. Mr. President, I deeply regret that we have been unable to vote on the nomination of Dr. David Satcher as the Surgeon General and the Assistant Secretary of the U.S. Public Health Service.

As a graduate of Ohio's medical school system, Dr. Satcher is truly a commendable choice for our next Surgeon General. The expediency of his nomination process gives an overwhelming indication of the impressive and extensive reach of his medical career. It is a career in which Dr. Satcher has placed considerable emphasis on the medically impoverished. He has demonstrated an unrelenting compassion for those less fortunate, and to quote Dr. FRIST, ''allowed science to drive his decision making'' throughout his brilliant career.

Born in rural Alabama his interest in medicine grew after a near-fatal bout with whooping cough at the age of 2. Even though his parents had only the benefit of elementary educations, they instilled in him the passion and drive to pursue his dreams. He received his B.S. from Morehouse College and became the first African-American to earn both an MD and a Ph.D. from Case Western Reserve University, while being elected to the Alpha Omega Alpha Honor Medical Society

After excelling in medical school, Dr. Satcher began his career at the Martin Luther King Jr. Medical Center in Los Angeles. There he developed and chaired King-Drew's Department of Family Medicine and served as the interim dean of the Charles R. Drew Postgraduate Medical School. As interim dean, he directed the King-Drew Sickle Cell Center for 6 years and negotiated the agreement with the UCLA School of Medicine and the Board of Regents.

Before being appointed to his current position of Director of the Centers for Disease Control and Prevention [CDC], Dr. Satcher returned to Atlanta to chair the Community Medicine Department at Morehouse School of Medicine, where he received the Watts Grassroots Award for Community Service in 1979. He then served as the president of Meharry Medical College in Nashville for the following decade. While at Meharry, he was the recipient of the National Conference of Christians and Jews Human Relations Award was elected to the Institute of Medicine of the National Academy of Sciences, and was appointed to the Council on Graduate Medical Education.

In November 1993, Dr. Satcher was appointed as the Director of the Centers for Disease Control and Prevention [CDC]. With policies he initiated, he has been credited with increasing child immunization rates from 52 percent to a record 78 percent in 1996, and improving the Nation's capacity to respond to emerging infectious diseases. During his tenure, the CDC has placed considerable emphasis on prevention programs as its breast and cervical cancer programs have now been expanded to all 50 States. In his current position, Dr. Satcher has garnered even more awards, including Ebony magazine's American Black Achievement Award in Business and the Professions, the Breslow Award for Excellence in Public Health, and recently the Dr. Nathan B. Davis Award for outstanding public service to advance the public health and the John Stearns Award for Lifetime Achievement in Medicine from the New York Academy of Medicine.

I believe HHS Secretary Dr. Donna Shalala described Dr. Satcher in the best manner, when she said that he brings ''world-class stature, management skill, integrity, and preventive health care experience'' to any office or title he may hold. President Clinton has stated that Dr. Satcher should concentrate heavily on reducing smoking, particularly among children. As an advocate for preventive health in family medicine, Dr. Satcher has worked to heighten awareness about all American's health and will continue to do so.

Mr. President, I believe that Dr. Satcher will bring the same professionalism, dedication, skill, and most of all character to this new position that he has shown throughout his professional career. I strongly urge my colleagues to support his nomination to the post of Surgeon General of the United States.●

SURFACE TRANSPORTATION EXTENSION ACT

● Mr. SESSIONS. Mr. President, I would like to express my gratitude to the diligent work of our leaders in the Senate Environment and Public Works Committee especially the chairman, Senator CHAFEE and ranking member, Senator BAUCUS along with the chairman of the Transportation Subcommittee, Senator WARNER in crafting a comprehensive, 6 year transportation bill. The bill unanimously passed by the Senate Environment and Public Works Committee makes progress towards building a more equitable formula for distributing Federal transportation funds to the States. It is unfortunate Congress did not have the opportunity to debate this bill during this session of Congress although I look forward to building upon progress made by the committee when the Senate reconvenes in January.

The law which authorizes our Federal transportation program expired on September 30 of this year. Thanks to the competent work of Gov. Fob James, and Jimmy Butts, the director at the Alabama Department of Transportation, and Don Vaughn, Assistant Transportation Director, I was alerted early on that if Congress failed to act on passing a transportation bill, critical transportation programs such as Interstate Maintenance, the National Highway System, and needed bridge repair throughout Alabama would cease by December. In addition, the Federal Department of Transportation would have been forced to shut its doors and transportation contractors would have been forced to lay off workers as Alabama and many other States curtailed or ceased awarding of transportation maintenance and construction contracts. To avoid this crisis, the Senate has enacted a short term solution to allow transportation projects to continue by providing additional funding and increased flexibility of Federal transportation funds to States.

The temporary transportation resolution passed by the Senate on Tuesday will allow Alabama access to $174,469,000 for critical highway programs. This amount represents half the amount of Federal highway funds Alabama was able to spend in fiscal year 1997. In addition, the Alabama Department of Transportation will have the flexibility to transfer funds between various transportation programs so that planning, maintenance and expansion can continue as a comprehensive, long-term transportation bill is passed by Congress early next year. Once a new long-term transportation bill is passed, the Secretary of Transportation will offset each State's fiscal year 1998 funding to reflect the funds used by each State as a result of this extension.

Again, I would like to personally thank and congratulate Senator BOND for putting this package together with our leaders of the Environment and Public Works Committee, Senator CHAFEE, WARNER, and BAUCUS. While many of my colleagues and myself would have preferred a long-term solution to our transportation needs, this short-term extension will allow Alabama and all States to continue their transportation planning, maintenance, and construction until a new, long-term bill is negotiated and passed hopefully early next year.●

YEAR 2000 PROBLEM STILL LOOMING, REQUIRES ACTION

● Mr. MOYNIHAN. Mr. President, as we approach the end of the 1st session of the 105th Congress, I would like to implore the Senate for one final time to consider the urgency of the year 2000 crisis. This matter has been much discussed and reported, but little action has taken place. In fact, the General Accounting Office last week released a report that the Social Security Administration, once thought to be at the fore of the solution, faces a possible crash of several crucial systems dealing with disability determination services.

This report is indicative of the enormity of the problem facing the computer systems of the Federal Government. I introduced S. 22 on the first day of this session to establish a bipartisan national commission to handle this problem—as a civil defense task force would. Try as they might, officials at the Office of Management and Budget simply cannot address the enormity of the task at hand.

Every few days I have attempted to keep my colleagues informed of the latest facets of the problem. On this last day of the first session let me add but one more twist to the immense but manageable problem. If only we would act. In the latest U.S. News and World Report, John Marks reports on the troublesome coincidence of converting to the new European currency at the time of the turn of the century. He writes:

> Even before it is introduced on January 1, 1999, the long awaited euro threatens to cost American business $30 billion or more to buy new software and recode old programs, as companies with interests on the other side of the Atlantic attempt to adapt to the new currency . . . the two problems would seem to be unrelated. But the coincidence in timing—the millennium bug and the currency change arrive within a year of each other—has transformed them into a larger single crisis for many companies.

Thus, international companies are forced to deal with two conversions in the next 2 years; and not surprisingly, experts predict there will be a drought in the supply of consultants who know how to do both.

Again, U.S. News:

> Last year, after dire warnings of a technological disaster at the dawn of the new century, companies rushed to hire programmers to save the day. In doing so, they created a labor shortage at a critical moment. Work on both the millennium bug and the euro transition requires knowledge of outdated COBOL computer systems. So all of a sudden, most of the programmers who might be deployed to manage the transition to the euro already have day jobs.

As I have mentioned before on this floor, we must also consider the conversion to the Euro and the labor shortage created over the next few years when we consider the size of the problem at hand.

The year 2000 problem is now fairly well known; the need for action plainly clear. With the legislative year coming to a close, I am hopeful my colleagues will realize this fact in the restful period between now and January 27 and be eager to take action on my bill—S. 22 with 18 copsonsors—in the year to come.

I ask that the article ''Latest Software Nightmare'' from the November 17, 1997, issue of U.S. News and World Report and ''Social Security Gets Year 2000 Warning'' from the November 5 Washington Post be printed in the RECORD.

The article follows:

[From the U.S. News & World Report, Nov. 17, 1997]

LATEST SOFTWARE NIGHTMARE—THE CURRENCY CHANGE IN EUROPE COULD COST U.S. FIRMS BILLIONS

(By John Marks)

For the past year or so, American businesses have been forced to grapple with the ''millennium bug,'' a computer programming glitch that threatens to wipe out bank accounts, financial statements, and databases when the year 1999 becomes the year 2000. Now, companies must brace themselves for another daunting—very expensive—software-related problem, this one involving the new European currency known as the euro.

Even before it is introduced on Jan. 1, 1999, the long-awaited euro threatens to cost American business $30 billion or more to buy new software and recode old programs, as companies with interests on the other side of the Atlantic attempt to adapt to the new currency. No later than Dec. 31, 1998, people doing business in Europe will have to rewrite their computer software to handle three different base currencies at once. The value of the euro will have to be determined on a daily basis by its relationship to both the dollar and other European currencies. In other words, every bill, every financial statement, and every stock price in the nine countries set to join what is known as the European Monetary Union will have to be ''triangulated.'' So far, says Sarwar Kashmeri, a corporate consultant specializing in the issue, no commercial software exists to make that calculation. ''We have been focusing very hard on the year-2000 problem, but we've been missing the euro,'' says Gary Johnson, an American attorney specializing in European securities markets.

The two problems would seem to be unrelated. But the coincidence in timing—the millennium bug and the currency change arrive within a year of each other—has transformed them into a larger, single crisis for many companies. The well-publicized millennium-bug problem was unwittinly created by computer programmers in the 1960s. In an effort to maximize scarce computer memory, programmers left the first two digits out of the year designation, so that 1997 reads merely ''97.'' Theoretically, when the year 2000 arrives, 90 percent of the world's computers will ''think'' it is 1900, creating all kinds of chaos. According to the cost conservative estimates, fixing the millennium bug will cost American business between $50 billion and $150 billion.

BUG ZAPPER

Last year, after dire warnings of a technological disaster at the dawn of the new century, companies rushed to hire programmers to save the day. In doing so, they created a labor shortage at a critical moment. Work on both the millennium bug and the euro transition requires knowledge of outdated COBOL computer systems. So all of a sudden, most of the programmers who might be deployed to manage the transition to the euro already have day jobs. ''There is a tremendous shortage of those kinds of skill sets,'' confirms Chris Fell, an executive at International Data corp.

Though the euro will be introduced in January 1999, it will not become the sole currency in Europe until July 1, 2002. On that date, all other currencies will be taken out of circulation. While a large part of the U.S. business community remains skeptical that Europe will pull off this monetary feat, many companies have begun to accept that it will. A few have begun to accept that it will. A few have begun to take steps. DuPont, which has a significant presence in Europe, has put together a team to prepare for the introduction of the currency. United Parcel Service has done the same. Both firms are looking into how to adapt their computer systems.

The change to the euro will affect some companies more than others. For example, Bloomberg Financial Markets, the world's largest provider of financial information, will have to add the euro to 10 year's worth of records—everything from trading prices to financial statements. In a recent Securities and Exchange Commission filing, Alliance Gaming Corp. announced that it would probably have to ''redesign new and, possibly, existing'' slot machines to accept new currencies.

While the initial changeover to the euro may be a financial headache, the vast new market created by the currency is expected to be lucrative for American companies. And no matter what it costs businesses on this side of the Atlantic to adjust their information technologies, they can rest assured that their European counterparts will be out even more: The most recent estimate puts the price of converting to the euro at $70 billion for European businesses.

[From the Washington Post, Nov. 5, 1997]

SOCIAL SECURITY GETS YEAR 2000 WARNING—MORE WORK NEEDED ON GLITCH, GAO SAYS

(By Rajiv Chandrasekaran)

The General Accounting Office today will warn that the Social Security Administration (SSA) faces a possible computer crash in the year 2000 because the agency has not started analyzing or fixing several crucial systems affected by the year 2000 software glitch.

Among the systems not yet analyzed are most of the 54 computer systems that operate state disability determination services, according to the GAO, the watchdog arm of Congress.

Those systems, which are operated by individual states but funded by the federal government, process applicants for Supplemental Security Income and Social Security Disability Insurance, programs that currently assist 12.5 million people.

''Disruptions to this service due to incomplete Year 2000 conversions will prevent or delay SSA's assistance to millions of individuals across the country,'' Joel Willemssen, the GAO's director of information resources management, wrote in a report to be released today by Sen. Charles E. Grassley (R-Iowa) and Rep. Jim Bunning (R-Ky.).

The GAO also said the Social Security Administration has not developed adequate contingency plans in case its computers are not fixed in time.

The report, however, did not call into the question the agency's ability to issue standard monthly Social Security checks in 2000 and beyond.

The SSA has long been touted as the federal agency that is most keenly aware of the year 2000 problem. The agency, whose ''mission critical'' systems collectively had been thought to have about 34 million lines of computer code, began making year 2000 repairs almost a decade ago.

As a result, SSA officials have been asked to hold seminars for other federal agencies about the issue and have been singled out for praise by Congress in the past. The new findings, congressional officials said, could create a new round of uncertainty about the federal government's year 2000 preparedness.

''If Social Security, which we've thought had everything under control, really doesn't, that raises new questions about other agencies,'' said a congressional staffer.

The year 2000 problem exists because most large computer systems have used a two-digit dating system that assumes that 1 and 9 are the first two digits of the year.

Without specialized reprogramming, the systems will think the year 2000—or 00—is 1900, a glitch that could cause them to go haywire.

According to the GAO, private contractors hired by the SSA to fix the year 2000 glitch on 42 of the 54 state disability determination services computers discovered 33 million additional lines of code that need to be tested and, where necessary, fixed.

The SSA did not include the state disability determination systems in its initial assessment of the date glitch, but now acknowledges that the systems are ''mission critical'' because of their importance in determining whether a person is medically eligible to receive disability payments, the GAO report said.

Analyzing and fixing the problem likely will be a massive undertaking. In just one office, the GAO said it found 600,000 lines of code in 400 programs that operate the disability system.

Without a full understanding of the scope of the problem on the state disability systems, ''SSA increases the risk that benefits and services will be disrupted,'' the GAO wrote.

Kathleen M. Adams, SSA's chief information officer, said the agency has recently received reports from all 50 states detailing their plans to fix the disability systems.

''They will be tested and implemented by December 1998, like the rest of Social Security,'' Adams said. ''I am very comfortable [the disability systems] will be ready.''

Adams said five states already have finished the conversion work for the disability systems.

The GAO also said the SSA faces a significant challenge in ensuring data that it exchanges with other federal and state agencies will be year 2000 compliant.

''Because SSA must rely on the hundreds of federal and state agencies and the thousands of businesses with which it exchanges files to make their systems compliant, SSA faces a definite risk that inaccurate data will be introduced into its databases,'' the GAO wrote.●

OMNIBUS PATENT ACT OF 1997

● Mr. BOND. Mr President, Congress has the ''power to promote the progress of Science and useful Arts, by securing for limited times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.'' If that phrase sounds familiar to my colleagues, it is because I lifted it straight from the Constitution. Article 1, section 8, known to many as the inventors clause.

This section of the Constitution is the result of the foresight that our Founding Fathers had to cut a deal with the creative minds of a fledgling country. The deal was rather simple, in exchange for sharing their ingenuity and their creations with the citizens of this new country, the Congress would grant these inventors temporary monopolies on their products and permit them to enjoy the proceeds of their invention for a period of time, with the weight of the law of the land to ensure those rights were protected.

This was a carefully thought out concept by rather brilliant individuals with unquestioned foresight. In my opinion, this compromise has been a smashing success. In the past 220 years,

the United States has become an economic, industrial, and intellectual superpower. The creative product of the U.S. is unmatched the world over and I believe that the United States patent system has played a central role in this success.

Why am I sharing these thoughts with my colleagues, because it is just like the Federal Government to take a good idea and turn it on its head. There is legislation pending on the Senate Calender, with the strong backing of the Clinton administration, that would gut the protection and the incentives offered inventors by our patent and trademark laws. This country's inventors have been an indispensable force in the success of which I have spoken. But this legislation would tip the balance of protection offered by patent laws away from these inventors and thinkers and open them to the hostile environment of intellectual property piracy and idea predators—commonplace in other parts of the world. Our inventors will be jerked from a protective environment, known for nurturing creativity and advancing practical knowledge, and be cast into a far harsher arena where it will be eminently more difficult for inventors to secure their rights and enjoy the rewards of their creativity and entrepreneurship—and possibly be driven from their work all together.

I am hear to speak out on behalf of the inventors and the small guys of this country. People with ideas. I would suspect that scattered throughout the bill there may be some good ideas that may improve the efficiency of the Patent and Trademark Office, but taken as a whole the changes proposed would stifle rather than promote the sciences and the useful arts. I believe the legislation is ill-conceived and I will fight it should it see Senate debate.

The past couple of weeks, the Senate has been debating the state of manufacturing in the United States. Many of my colleagues have registered their concern that much of our manufacturing base has left the country and they fear that this trend will continue. I believe that there is a future for manufacturing and industry in this country. I am very encouraged by the number of small businesses and startup companies presently thriving in the United States. Much of our future lies with these startup businesses and small business people that are creating new technology, starting companies, and expanding employment opportunities. But I believe we need to seize the opportunity and continue to encourage it.

This is where the patent comes into the equation. A great idea can come to anyone, regardless of his or her capital or financial resources. This is the point at which the magnificence of our system becomes clear to me. Should a person be the first with an idea and successfully document that idea, that person can be granted a patent. The patent secures a monopoly and if it is a good idea it can be shopped around the venture capital markets. Should the financial assistance be secured, the inventor can build a prototype, start a business, hire people, and perhaps even build a successful company and make money.

I believe that strong patent protection is central to that equation. First, those with capital are not inclined to fork over some money because it is the nice thing to do, they want assurances of return. The legally protected monopoly provides that assurance. The fact that our patent laws offer the strongest possible protection also contributes to that assurance. The inventor's idea is held in secret at the patent office until it is granted, which by the way prevents theft. The law also grants a legal right upon which an inventor can bring a civil action for damages should that idea be infringed upon. Strong patent protection lends value and certainty to this temporary monopoly.

Without the patent protection, ideas that are not backed by financial resources may never see the light of day or else they may be gobbled up by a large company for pennies on the dollar. If one does not hold a realistic belief that they can make a go of it with their own idea, I believe that stifles important incentives present in America to pursue an idea or invent. But even more so, I do not believe this is the American way. This is a great country because anyone with an idea and the fortitude to pursue that idea can make a go it. This country is full of companies that began under just such circumstances.

This country needs its entrepreneurs, they are essential if we are to continue to enjoy economic growth. Think about the role of entrepreneurs and startup companies in our economy. They come up with new ideas, they promote competition, they shake up old establishments, they force competitors to be smart and competitive, they inject vigor and dynamism into our capitalistic system. They create manufacturing jobs right here in the United States. They create secure and well-paying jobs for Americans. And they give you, me, and our children new technology and news ideas for all our use. This force is essential to our strength and continued growth and the patent laws are essential to allowing these startups to begin and then thrive.

Many of those that are pushing for this bill are large companies with vast financial resources. Before they put forward their arguments in favor of the legislation, I must challenge them to ask themselves some important questions. Did not their companies begin with a single person with an idea? Did they not seize the opportunities offered in this country to grow and flourish? Did not the patent offer protection needed to pursuing that idea? Pulling the ladder up once you have made it to the top is not the American way, but that agenda is underlying much of this legislation.

I support the inventors who are fighting these changes. I believe they are correct and courageous in their stance. Unfortunately, they have been ridiculed and vilified in the press by the Commissioner of the PTO, the individual running the agency responsible for licensing billions of dollars in intellectual property rights here in the United States. In fact, I read that he said that the opponents of this bill, that would include myself, reside on the lunatic fringe. He also compared our sanity to that of Timothy McVeigh—on behalf of the hardworking inventors of this country, I find such comments outrageous and demeaning. But rather than dignifying those ridiculous comments by responding on the merits, I will share with my colleagues a sampling of those that Mr. Lehman is saying reside on the lunatic fringe.

First, I have been contacted by countless inventors registering their opposition, their creations include medical devices, drugs, machinery, electronic technology, computer technology, and agricultural products—to mention a few. They share a fear that this will open them up to litigation, theft, and harassment while closing down their opportunities to continue their work. I have also been contacted by men and women of science, economists, doctors, and professors. The most notable group of objectors is a group of over 20 Nobel Laureates in science and economics who have signed an open letter to the U.S. Senate opposing the bill. These great minds all agree that this legislation could result in ''lasting harm to the United States and to the world.'' They also concur with the concerns I am advancing today that this bill will be very harmful to small inventors and ''discourage the flow of new inventions that have contributed so much to America's superior performance in the advancement of science and technology.'' Finally, these great scientists and economists have expressed concern that this bill will create a disincentive to rely on the limited life of a patent to share their creations with the public, an occurrence which will sap the spirit of the inventors clause.

I think that opposition should be enough to convince just about anyone. But respected others, including the New York Times, have spoken out. The Times editorial page has concluded that this bill will ''dampen the innovative spirit that helps sustain the American economy.'' The Times also correctly notes that the American patent system generates more and better patent applications than any other country's, but that this bill terribly threatens the incentives present in our system that stimulates that creativity.

I have also been contacted by Ross Perot, who has expressed in no uncertain terms his absolute objection to this legislation. As Mr. Perot reminded me, patents are a constitutionally guaranteed right which have been essential to countless Americans in their

fulfillment of the American dream. But rather than celebrate this success story unique to America, we are proposing selling our inventors down the river. Mr. Perot has called upon the Members of Congress to ask themselves a simple question when considering this bill, is it right or is it wrong? We both agree it is wrong. And we are ready for a fight. Mr. Perot, whose dedication to America and success as a businessman cannot be questioned, has said, in the words of Isaac Hull, ''If that fellow wants a fight, we won't disappoint him.''

There are other well-respected groups, small business groups and groups of concerned citizens that believe this legislation is bad policy and are lining up for a fight.

I will take the collective contribution of those that oppose this bill and stack them up against Mr. Lehman's arguments any day. The inventors of this country should derive confidence because they have the Constitution and many great minds of science on their side and rhetoric on the other.

For those reviewing the bill, I would like to point out some issues.

First, the proponents of the bill want to create an infringement defense, known as a prior user right. The prior user right is a bad idea for many reasons. Foremost, it starts down a road that changes our ''first to invent'' system and overturns 200 years of U.S. patent policy. The defense would not only permit inventors to keep their ideas secret, but it encourages them to keep them secret. Our first to invent system protects small inventors. If they document their invention, they will not have to engage in a race to the patent office. They will have time to tinker and perfect their inventions without being forced to file early and then file for all perfections, a costly process for a small inventor.

The defense will hurt small inventors in the capital markets because it will undermine the certainty of the patent. As I said this certainty is important to attracting capital and the capital is important for underfunded inventors to take their products to market. Should one have an invention that requires expensive testing, the idea can not be perfected without finances. Capital is essential for inventors to role out their own ideas. This section poses many problems about which I could speak for quite some time, but I will refrain. The reasons will be aired fully in time.

Many proponents want to force all inventors to publish their ideas after 18 months, regardless of whether the patent review process is completed. Some changes have been made to scale this back, but many are laying in wait to see this implemented. I believe this would open our inventors to theft. Small inventors would have to go to court to recoup their just rewards and would have to depend on costly litigation. Many say, ''We won't steal ideas,'' I hope not, but this is the business world. I am unwilling to put small inventors at this sort of a risk.

Proponents are looking for changes in the system for challenges to patents, this may open small inventors to unnecessary expense and litigation. Taken as a whole, there are profound changes proposed. The collective weight, I believe, will hurt our small inventors.

A quick word about an argument forwarded by the bill's proponents. They will come to your office saying that this bill is necessary because there is a pariah lurking in the world of intellectual property. He uses what is called a submarine patent to manipulate the patent review process to reap unjustified rewards from honest, hard-working men and women. His greed and treachery could potentially destroy thousands of businesses and deal a crushing blow to our economy.

To that I respond—hogwash. Let's engage in an honest debate. When we in Congress agreed to the implementing language in the GATT agreement, we agreed to change the U.S. patent term from a guaranteed 17 years to 20 years from the date of filing. Supposedly, that was done to get at submarine patents. It does take away most if not all of the incentive for an inventor to game the system and should drive a stake into the heart of wrongdoers.

In the process we made a tremendous sacrifice that will cost many of our inventors patent protection. Today, for each day beyond 3 years that a patent lingers in the patent office, our inventors will lose a day of patent protection. Should someone invent a better potato peeler or candy wrapper, it probable won't be in the office today. But the change could have a significant affect on those attempting to get a patent on breakthrough technology. Such technology can often stay under review in the office for years and subsequently our inventors have lost years of protection compared with what they enjoyed before the change. Our inventors have made a great sacrifice to root out the wrongdoers in the system. But the proponents of this bill want more.

They do have more. The PTO has a computer system designed to track patent applications that appear to be those of one attempting to game the system. The Commissioner also has the power to order that the application of one attempting to game the system is published, further curtailing the possibility of the submarine patents. Finally, the Commissioner himself has said that only 1 percent of 1 percent of patent applications could be considered submarine patents.

The Commissioner has plenty of tools at his disposal to curb this problem if it in fact exists. If the problem is out of control, then I believe the problem lies with the Commissioner and those with complaints would be better served leveling their concerns at the other end of Pennsylvania Avenue.

I will conclude by saying that brilliant minds have been drawn to this country and the brilliant minds native to this country have flourished. I do not believe it is an accident. We in America have chosen our own path. The goal of our patent system is to protect and reward entrepreneurs and innovative businesses, to encourage invention and advancement of practical knowledge. The goal of many of our competitor systems is to share technology immediately, not to protect it. That results in preserving the corporate hierarchy without giving innovators the opportunity to compete.

In other countries thoughts and ideas do not receive the level of reward that they do here. The system works, let us not destroy it. If we want to improve the Patent Office, let's get on with it. But let us not organize a systematic assault on the very system that has contributed so much to this country becoming the greatest Nation on Earth.

I ask that two letters and an op-ed be printed in the RECORD.

September 11, 1997.

An Open Letter To the U.S. Senate:

We urge the Senate to oppose the passage of the pending U.S. Senate Bill S. 507. We hold that Congress, before embarking on a revision of our time tested patent system, should hold extensive hearings on whether there are serious flaws in the present system that need to be addressed and if so, how best to deal with them. This is especially important considering that a delicate structure such as the patent system, with all its ramifications, should not be subject to frequent modifications. We believe that S. 507 could result in lasting harm to the United States and the world.

First, it will prove very damaging to American small inventors and thereby discourage the flow of new inventions that have contributed so much to America's superior performance in the advancement of Science and technology. It will do so by curtailing the protection they obtain through patents relative to the large multi-national corporations.

Second, the principle of prior user rights saps the very spirit of that wonderful institution that is represented by the American patent system established in the Constitution in 1787, which is based on the principle that the inventor is given complete protection but for a limited length of time, after which the patent, fully disclosed in the application and published at the time of issue, becomes in the public domain, and can be used by anyone, under competitive conditions for the benefit of all final users. It will do so by giving further protection to trade secrets which can be kept secret forever, while reducing the incentive to rely on limited life patents.

Nobel Laureates in support of the letter to congress, re: Senate Bill 507

Franco Modigliani, (1985, Economics) MIT.
Robert Solow, (1987, Economics) MIT.
Mario Molina, (1995, Chemistry) MIT.
Roald Hoffman, (1981, Chemistry) Cornell.
Milton Friedman, (1976, Economics) University of Chicago.
Richard Smalley, (1996, Chemistry) Rice.
Clifford Shull, (1994, Physics) MIT.
Herbert A. Simon, (1978, Economics) Carnegie-Mellon.
Douglass North, (1993, Economics) Washington University.
Dudley Herschbach, (1986, Chemistry) Harvard.
Herbert C. Brown, (1979, Chemistry) Purdue.
David M. Lee, (1996, Physics) Cornell.

Daniel Nathans, (1978, Medicine) Johns Hopkins.
Doug Osheroff, (1996, Physics) Stanford.
Har Gobind Khorana, (1968, Medicine) MIT.
Herbert Hauptman, (1985, Chemistry) Hauptman-Woodward Medical Research Institute.
John C. Harsanyi, (1994, Economics) UC Berkeley.
Paul Berg, (1980, Chemistry) Stanford.
Henry Kendall, (1990, Physics) MIT.
Paul Samuelson, (1970, Economics) MIT.
James Tobin, (1981, Economics) Yale.
Jerome Friedman, (1990, Physics) MIT.
Sidney Altman, (1989, Chemistry) Yale.
Robert F. Curl, (1996, Chemistry) Rice.
William Sharpe, (1990, Economics) Stanford.
Merton Miller, (1990, Economics) U. of Chicago.

REFORM PARTY
OF THE UNITED STATES,
Dallas, TX, November 4, 1997.

Hon. CHRISTOPHER S. BOND,
Russell Building, Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR BOND: I want to thank you personally for having the courage and integrity to oppose the Patent Bill now pending before Congress—Senate Bill 507. This Bill will destroy our patent system and remove all incentives for people to create revolutionary new products.

In addition, I would like to thank Senate Majority Leader Trent Lott for standing on principle and refusing to allow this bill to be sneaked through the Senate without hearings or debate.

Obviously, some members of the Senate feel that the owners of the country—the people—have no right to know what Congress is doing.

Under this law, inventors' new products still pending approval, will be made available to all nations, with many countries shamelessly mass-producing these products and ignoring the inventors' rights.

The only recourse for the inventor is to petition the newly created World Trade Organization, where our country only has one unweighted—and believe it or not, the inventor has no recourse in the United States court system. Does anybody really think that this complies with our Constitution?

Granting patent rights to inventors is a Constitutional right—clearly spelled out in our Constitution in Article I, Section 8.

Please remind every member of Congress that it is illegal to amend the Constitution by passing laws.

The only way the Constitution can be amended is through the amendment process. Isn't this a whole lot better than leaving it up to the lobbyists, foreign governments, and corporations? The framers of the Constitution knew what they were doing. Let's follow the rules.

Congress has no business even thinking about circumventing the Constitution with a combination of federal law and international trade agreements.

What would our country and the world be like today if Robert Fulton has not invented the steam engine, Thomas Edison had not invented the electric light, Alexander Graham Bell had not invented the telephone and made instant worldwide communication possible, The Wright brothers had not invented the airplane, Edwin Armstrong had not harnessed the airways and made radio and television possible, Jack Kilby and Robert Noyce had not invented the integrated circuit, just to mention a few.

A few years ago two young men, Ralph Lagergren and Mark Underwood, from Kansas had revolutionary ideas about how to improve the combine used to harvest grain. They had great ideas, but no money.

Using their brains, wits, and creativity as a substitute for money, they successfully created this new product and now hold over 25 patents.

John Deere purchased the technologies and patent rights for several million dollars.

I had the privilege of showing 4,000 Future Farmers of America a videotape of their great work. These teenagers were electrified, because Ralph's and Mark's success made these young people realize that it is still possible to dream great dreams in America and make those dreams come true.

Can't we agree that inventors should not have their Constitutional rights violated and they should be paid for their creative ideas and inventions?

Patent rights and the creativity and ingenuity of United States inventors have been instrumental in giving the United States our world leadership.

Why is this happening? Because our large corporations, foreign governments, and foreign companies who contributed millions of dollars to the 1996 political campaigns want to steal our inventors' new patents. If you question this statement, get a list of the companies working to lobby this change through Congress.

Patents are property rights under U.S. Law. It is immoral and inexcusable for large corporations to band together and spend a fortune trying to lobby this Bill secretly through Congress, so that the creative ideas of United States inventors can literally be stolen.

Why don't these people admit that what they are trying to get done is no better than robbing a bank. In fact, it is even worse to steal an individual's inventions so that companies can increase corporate profits.

If this is such a good idea, why has this whole process been carried out behind closed doors in Congress, with people supporting this Bill doing everything they can to avoid public debates on the floor of the House and Senate?

The answer it is cannot stand the harsh light of public scrutiny.

I want to thank you and every member of the House and Senate who have stood up to the tremendous pressure you are subjected to. I know that many of you have been threatened about what the special interests will do to you in the next election. You are living Commodore Maury's words—''When principle is involved, be deaf to expediency.''

Just let these people know that all the special interest money in the world is not worth one penny unless it will buy the votes of the American people. I, and millions of other Americans who share your concerns over Constitutional rights and protecting our inventors' great new ideas, will be working night and day to see that people who have the character and integrity to stand up to this tremendous pressure are overwhelmingly re-elected.

I challenge the people supporting this Bill to come out of the closet, face the American people, and have an open debate on this issue, but I won't hold my breath waiting for them to do it. That is not the way they operate, and they will all be embarrassed if they attempt to do it.

I will pay for the television time to allow a national debate on this issue. The only problem we will have is that the people who are for this Bill will not show up, because it cannot withstand the light of public scrutiny, and they will pressure the television networks not to sell the time.

If this Bill passes, A Constitutional lawsuit will be filed immediately. Foreign nations and corporations will know that the 21st Century pirates for hire reside in the U.S. Congress. Those who vote for it will be paid off handsomely. The people who voted for it will be forced to defend their actions in their 1998 campaigns. It will be a major Constitutional violation issue in the 2000 campaigns.

Isn't it time for our elected officials to stop debating whether their actions are legal or illegal, and ask only one question, ''Is it right or wrong?''

Finally, before voting for this Bill, ask every member of the House and Senate who plan to vote for this Bill, to read the words of Isaac Hull, Captain of the U.S.S. Constitution, Old Ironsides—''If that fellow wants a fight, we won't disappoint him.''

Again, thank you for your leadership—thank you for your courage—thank you for standing on principle.

Sincerely,

ROSS PEROT.

[From the New York Times, Oct. 17, 1997]

A BAD PATENT BILL

The Senate is considering a misguided bill to recast the patent laws in ways that would threaten small inventors and dampen the innovative spirit that helps sustain America's economy. The bill is so mischievous that it has attracted an unusual coalition of opponents—including the icon of of liberal economists, Paul Samuelson, the icon of conservative economists, Milton Friedman, and 26 other Nobel Prize-winning scientists and economists.

Patent laws currently require inventors to disclose their secrets in return for the exclusive right to market their product for up to 20 years. Early disclosure helps the economy by putting new ideas immediately into the hands of people who, for a fee to the patent holder, find novel and commercially applicable uses for these ideas. Extended protection, meanwhile, provides a huge incentive for inventors to keep inventing. The American system generates more and better patent applications than any other country's.

The Senate bill would weaken patent protection for small inventors by requiring inventors who file for both American and foreign patents to publish their secrets 18 months after filing rather than when the patent is issued. Small inventors say that premature publication gives away their secret if their application fails. It would also allow large corporations with the financial muscle to fend off subsequent legal challenges to maneuver around the patent even if it is later issued.

Worse, the bills would encourage corporations to avoid the patent process altogether. Under current law, companies that rely on unpatented trade secrets run the risk that someone else will patent their invention and charge them royalties. The Senate bill would permit companies whose trade secrets are later patented by someone else to continue to market their products without paying royalties. Encouraging corporations to hide secrets is the opposite of what an economy that relies on information needs.

Pesky patent holders do in fact get in the way of large corporations. But the economy thrives on independent initiative. Small inventors need ironclad patent protection so that they are not forced into a legal scrum with financial giants. The House of Representatives and the Senate Judiciary Committee approved the patent bill without hearing the country's leading economists and scientists make their case. Senate sponsors now say they will try. Congress needs to hear the critics out before proceeding to any more votes.●

CONNECTICUT TEACHER OF THE YEAR

● Mr. DODD. Mr. President, I rise today to offer congratulations to an

outstanding mathematics teacher, Marianne Roche Cavanaugh, who has been named the 1998 Connecticut Teacher of the Year. Mrs. Cavanaugh has demonstrated a lifetime of dedication to the students of Glastonbury's Public Schools, and she has set a standard of excellence for both her students and other educators. I want to express my gratitude and admiration for the commitment that she has displayed over her 22 years in teaching.

Mrs. Cavanaugh has had a distinguished career marked with various awards and achievements. She single-handedly created the Gideon Wells Marathon—an academic and community involvement program for 7th and 8th graders. Since 1994, students have raised more than $20,000 by securing pledges for each math problem they solve in 1 hour during the Marathon. The accumulated funds have been donated to charities chosen by the students. In addition, Mrs. Cavanaugh has directed district-wide professional development, and has co-developed a problem solving math curriculum, which emphasizes writing, calculator use, problem solving, and interdisciplinary activities. Imaginative and productive ideas such as these have earned Mrs. Cavanaugh the distinction of being a finalist for the prestigious Presidential Award for Excellence in Mathematics and Science Teaching in both 1986 and 1998, as well as being the winner of the Celebration of Excellence Award in 1986.

The purpose of the Connecticut Teacher of the Year Program is to identify, from among many outstanding teachers, one teacher to serve as a visible and vocal representative of what is best in the profession. Through her innovative ideas, dedication to the institutional development of mathematics, and love for her profession and her students, Mrs. Cavanaugh has clearly earned this prestigious honor.

While I commend Mrs. Cavanaugh for her display of excellence in teaching, I want also to mention that her work is representative of the work of many educators that too often remain unrecognized. A survey done by the National Center for Education Statistics in 1995 found that only 54 percent of all teachers feel respected by society in their profession. Teachers fill an enormously important role in shaping the developmental experiences of children during the impressionable ages of childhood and adolescence. They serve not only to educate, but to mentor, motivate, influence, and inspire our children. Thanks to Mrs. Cavanaugh and other quality teachers like her throughout the State and the Nation, we have a brighter future ahead of us.●

THE 25TH ANNIVERSARY OF THE GREAT LAKES WATER QUALITY AGREEMENT

● Mr. GLENN. Mr. President, this year marks the 25th anniversary of the Great Lakes Water Quality Agreement, which has united Canada and the United States in their dedication to protecting the biological, chemical, and physical integrity of the Great Lakes. The commitment of both countries to manage water quality on an ecosystem basis has been so successful that other regions often praise our accomplishments and strive to achieve the same high quality of management. I applaud the efforts of both countries in the last 25 years to achieve the goals set forth in the Great Lakes Water Quality Agreement and urge that they continue to work cooperatively to maintain and improve Great Lakes water quality during the next 25 years.

On April 15, 1972, the Great Lakes Water Quality Agreement was signed by President Richard Nixon and Prime Minister Pierre Trudeau as a binational pledge to reduce and prevent pollution in the Great Lakes. The impetus for this agreement was the deteriorated quality of the Great Lakes into which we discharged our untreated wastes. In fact, Lake Erie was declared dead because of its poor quality and the Cuyahoga River had even caught fire. Lake Erie and Lake Ontario suffered from high phosphorus loadings which caused excessive amounts of algae to grow and deplete the water of oxygen. Low oxygen levels in the lakes caused fish to die. Other contaminants discharged into the water entered the food chain and caused deformities in the fish and wildlife of the region.

The initial agreement concentrated on reducing phosphorus and pollutants entering our lakes through municipal and industrial discharges. As a result of the 1972 Great Lakes Water Quality Agreement, phosphorus levels significantly decreased in the Great Lakes. In Lake Erie and Ontario, phosphorus loadings have been reduced by almost 80 percent. The United States and Canada achieved this binational goal through improvements in sewage treatment, lowering the levels of phosphorus in detergents, and reducing agricultural runoff.

While significant improvements were being made in controlling phosphorus and other wastewater discharges, researchers showed that toxic substances were a major concern. Persistent toxic substances, such as DDT, DDE, mercury, and PCB's, bioaccumulate in organisms and increase in concentration up the food chain. Some substances have been shown to cause birth defects in wildlife and adverse health effects in humans.

As a result, the Great Lakes Water Quality Agreement was revised in 1978 to meet the challenge of controlling toxics and included an ecosystem approach to managing the water quality of the Great Lakes basin. The two countries committed themselves to achieving zero discharge of toxic substances in toxic amounts and the virtual elimination of persistent toxic substances.

Due to the United States and Canadian commitment to reduce toxic substance releases, some major strides have been accomplished. The cormorant population in the Great Lakes region has significantly increased from 1950's to 1970's levels when the number of nesting pairs of cormorants dropped by 86 percent. Between 1971 and 1989, concentrations of DDE and PCB's decreased in cormorant eggs by more than 80 percent.

An additional refinement of the Great Lakes Water Quality Agreement occurred with the 1987 protocol which reinforced the 1978 commitments of the two countries and highlighted the importance of human and aquatic ecosystem health. Provisions were added to clean up 42 local areas of concern in the Great Lakes and included the development and implementation of remedial action plans [RAP's] and lakewide management plans.

A challenge to controlling pollutants entering the Great Lakes exists since toxics and other pollutants enter the system in numerous ways. Therefore, the 1987 protocol also focused on nonpoint source pollution, contaminated sediments, airborne toxic substances, and contaminated groundwater.

Since the 1987 protocol, accomplishments have been made in the areas of concern. In 1994, Collingwood Harbour, ON, attained its restoration goals. The community worked together to insure that the contaminated sediments and deteriorated fish and wildlife habitats were dealt with in an innovative and cost-effective manner. On our side of the border, a fish consumption advisory was lifted for the first time in two decades at Waukegan Harbor, IL, in February of this year. The harbor is an area of concern which has been undergoing remediation efforts to clean up the largest known-concentration of PCB's and PCB contaminated sediments.

Though toxic substances continue to pollute the Great Lakes and threaten the health of humans and wildlife, there also have been accomplishments in controlling some toxics. For instance, concentrations of polychlorinated compounds, such as dioxins and furans which are used in the bleaching process of pulp and paper mills, have decreased in the Great Lakes by 90 percent since the late 1980's.

While improvements in Great Lakes water quality are evident, they have not come quickly enough nor have they addressed all facets of the problem. Moreover, the most difficult challenge laid out by the Great Lakes Water Quality Agreement is still before us—the virtual elimination of persistent toxic substances. Much more work needs to be done in this arena. Fortunately, the Great Lakes Water Quality Agreement is precisely the vehicle which will enable us to rise to the challenge of virtually eliminating persistent toxic substances in the Great Lakes. Though crafted 25 years ago, the agreement and its amendments remain, in its current form, a vital road

map for the restoration and protection of the Great Lakes. I hope that my colleagues will join me in respecting this agreement so that future generations will be able to enjoy a thriving Great Lakes ecosystem. ●

SENATE QUARTERLY MAIL COSTS

● Mr. WARNER. Mr. President, in accordance with section 318 of Public Law 101–520 as amended by Public Law 103–283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulation of Senate mass mail costs for the fourth quarter of fisal year 1997 to be printed in the RECORD. The fourth quarter of fiscal year 1997 covers the period of July 1, 1997 to September 30, 1997. The official mail allocations are available for frank mail costs as stipulated in Public Law 104–197, the Legislative Branch Appropriations Act for fiscal year 1997.

The material follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING 09/30/97

Senators	Fiscal year 1997 official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
Abraham	$143,028	0		$0.00	
Akaka	43,336	0		0.00	
Allard	59,148	0		0.00	
Ashcroft	97,617	1,689	0.00033	582.70	$0.00011
Baucus	41,864	6,996	0.00849	5,683.59	0.00690
Bennett	50,841	0		0.00	
Biden	40,023	0		0.00	
Bingaman	50,582	700	0.00044	160.10	0.00010
Bond	97,617	0		0.00	
Boxer	382,528	29,800	0.00097	4,844.53	0.00016
Bradley	33,378	0		0.00	
Breaux	82,527	0		0.00	
Brown	20,625	0		0.00	
Brownback	52,198	0		0.00	
Bryan	50,755	18,600	0.01402	3,985.50	0.00300
Bumpers	62,350	0		0.00	
Burns	41,864	0		0.00	
Byrd	53,135	0		0.00	
Campbell	77,822	0		0.00	
Chafee	43,394	0		0.00	
Cleland	90,218	0		0.00	
Coats	100,503	0		0.00	
Cochran	62,491	0		0.00	
Cohen	12,042	0		0.00	
Collins	35,217	92,500	0.07490	11,020.20	0.00892
Conrad	38,762	34,800	0.05472	4,710.37	0.00741
Coverdell	118,346	0		0.00	
Craig	44,496	0		0.00	
D'Amato	232,926	0		0.00	
Daschle	39,578	0		0.00	
DeWine	164,923	51,754	0.00470	39,763.91	0.00361
Dodd	71,425	619	0.00019	529.01	0.00016
Domenici	50,582	0		0.00	
Dorgan	38,762	19,363	0.03044	3,197.15	0.00503
Durbin	125,121	0		0.00	
Enzi	28,054	0		0.00	
Exon	13,199	0		0.00	
Faircloth	121,600	0		0.00	
Feingold	91,527	0		0.00	
Feinstein	382,528	18,519	0.00060	2,389.06	0.00008
Ford	77,040	0		0.00	
Frist	96,062	0		0.00	
Glenn	164,923	0		0.00	
Gorton	97,506	288,528	0.05618	55,591.33	0.01082
Graham	230,836	0		0.00	
Gramm	251,855	1,131	0.00006	384.55	0.00002
Grams	85,350	178,000	0.03973	30,536.17	0.00682
Grassley	65,258	283,000	0.10064	50,124.50	0.01783
Gregg	44,910	0		0.00	
Hagel	38,444	0		0.00	
Harkin	65,258	0		0.00	
Hatch	50,841	0		0.00	
Hatfield	18,477	0		0.00	
Heflin	22,240	0		0.00	
Helms	121,600	0		0.00	
Hollings	76,388	0		0.00	
Hutchinson	47,286	0		0.00	
Hutchison	251,855	0		0.00	
Inhofe	73,454	0		0.00	
Inouye	43,336	0		0.00	
Jeffords	38,357	91,796	0.16105	15,903.49	0.02790
Johnson	29,826	71,600	0.10070	14,035.58	0.01974
Johnston	21,919	0		0.00	
Kassebaum	16,457	0		0.00	

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING 09/30/97—Continued

Senators	Fiscal year 1997 official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
Kempthorne	44,496	0		0.00	
Kennedy	104,638	0		0.00	
Kerrey	50,818	0		0.00	
Kerry	104,638	0		0.00	
Kohl	91,527	0		0.00	
Kyl	83,872	0		0.00	
Landrieu	62,755	0		0.00	
Lautenberg	124,195	503	0.00006	405.81	0.00005
Leahy	38,357	7,380	0.01295	1,570.68	0.00276
Levin	143,028	0		0.00	
Lieberman	71,425	0		0.00	
Lott	62,491	0		0.00	
Lugar	100,503	0		0.00	
Mack	230,836	0		0.00	
McCain	83,872	0		0.00	
McConnell	77,040	0		0.00	
Mikulski	90,835	0		0.00	
Moseley-Braun	163,870	385,000	0.03310	56,505.14	0.00486
Moynihan	232,926	0		0.00	
Murkowski	37,990	286,000	0.48722	41,965.64	0.07149
Murray	97,506	207,437	0.04039	38,963.42	0.00759
Nickles	73,454	0		0.00	
Nunn	31,770	0		0.00	
Pell	11,158	0		0.00	
Pressler	10,108	0		0.00	
Pryor	16,371	0		0.00	
Reed	32,752	0		0.00	
Reid	50,755	18,600	0.01402	3,985.75	0.00300
Robb	109,107	0		0.00	
Roberts	47,525	0		0.00	
Rockefeller	53,135	101,379	0.05595	18,263.09	0.01008
Roth	40,023	0		0.00	
Santorum	176,220	0		0.00	
Sarbanes	90,835	0		0.00	
Sessions	63,649	0		0.00	
Shelby	83,692	0		0.00	
Simon	44,289	0		0.00	
Simpson	9,473	0		0.00	
Smith, Bob	44,910	0		0.00	
Smith, Gordon	53,158	0		0.00	
Snowe	46,609	0		0.00	
Specter	176,220	0		0.00	
Stevens	37,990	0		0.00	
Thomas	37,266	1,055	0.00226	244.00	0.00052
Thompson	96,062	0		0.00	
Thurmond	76,388	0		0.00	
Torricelli	94,702	238,000	0.03056	34,093.31	0.00438
Warner	109,107	0		0.00	
Wellstone	85,350	0		0.00	
Wyden	70,009	0		0.00	

TRIBUTE TO MICHELE JOHNSON

● Mr. CONRAD. Mr. President, I rise for the purpose of commending the efforts of Michele Johnson, a legislative assistant on my staff who will be leaving the Senate at the end of this session. Michele's conscientiousness and exceptional work will be missed.

Michele Johnson, a native of rural Michigan, ND, and graduate of the University of North Dakota, has served on my staff for almost 3½ years. Michele has distinguished herself by her meticulous attention to detail and her ability to tackle a wide range of issues critical to our State. She has been of great help in our work to bring change to the Nation's agricultural credit system in order to help farmers who are struggling financially. She has also played an instrumental role in efforts we have undertaken to bring much needed economic and rural development to every corner of North Dakota. Her accomplishments in these areas will have a positive impact for years to come.

A lawyer by training, Michele has most recently tackled a very difficult assignment. In the wake of this year's millennium flood, she volunteered to go to Grand Forks to assist in the Red River Valley's disaster recovery efforts. Even before the floodwaters had receded, Michele had packed her bags and arrived in Grand Forks to be a part of the onsite assistance team.

While in Grand Forks Michele brought a local perspective to the Federal disaster response and her firsthand experience was enormously helpful in our efforts to lay the groundwork for North Dakota's long-term recovery. In her work, she earned high praise and recognition from community leaders up and down the Red River Valley.

We will miss Michele's contributions to the office, including her cheerful presence and enthusiasm. Thanks, Michele, for a job well done. We wish you well as you move on to your next assignment.●

MONTEFIORE MEDICAL CENTER

● Mr. D'AMATO. Mr. President, I rise to discuss one important health care initiative in New York State. This worthy project is the Montefiore Medical Center and it is located in the Bronx section of New York City.

The Montefiore Medical Center system, established over 100 years ago, is an integrated health delivery system with two acute care hospitals providing access to over 1,000 beds, 30 community-based primary care centers, and a range of other outreach services operating in the Bronx and the surrounding communities. Through its extensive network, including comprehensive-care sites in some of the Nation's most economically deprived areas, Montefiore provides care to medically underserved residents. The Montefiore system provides nearly 20 percent of all inpatient acute care, and nearly 40 percent of all tertiary care required by Bronx residents, including over $50 million in uncompensated charity care annually. In addition, in partnership with the Children's Health Fund, Montefiore administers the Nation's largest medical program for homeless children.

The Bronx is home to 400,000 children under age 21. In 1995, Montefiore conducted an extensive review of the health status of Bronx children and concluded that the overwhelming majority are at serious health risk, for reasons such as abuse, pediatric AIDS, lead poisoning, and asthma. In particular, asthma is the most serious health risk to Bronx children. Nearly one-third of births in the borough are to teenage mothers who receive no prenatal care. As a result, the child hospitalization rate is 50 percent above the national average.

Montefiore's study also demonstrated that a fundamental restructuring of its pediatric health care delivery system should be necessary to meet the growing challenge of providing services to these extremely at-risk children. Managed care is rapidly transforming how health care services are delivered in underserved communities. To remain viable in the evolving health care marketplace, Montefiore's child health treatment, prevention, and education services must be organized and efficiently coordinated.

Montefiore has long been recognized as one of the Nation's premier pediatric research and training institutions, having trained a significant percentage of the country's pediatricians. In recent years, Montefiore has lost substantial numbers of pediatric specialists to more traditional children's hospitals which could have a dramatic impact on the numbers of physicians who practice in inner-city communities. To ease the competitive disadvantage and ensure its capacity to retain critically needed pediatric resources for the Bronx, Montefiore must consolidate pediatric specialists and specialty care in one location, a children's hospital.

To meet the enormous challenge of providing high-quality, comprehensive services for Bronx children, Montefiore will develop the Montefiore Medical Center Child Health Network [CHN], an integrated system of family-centered care for families of all socio-economic levels. The CHN, organized around the core principal of providing enhanced access to high quality primary care, will offer a full complement of child health services.

As the central institution of the CHN, the Montefiore Children's Hospital will feature 106 beds in age-appropriate units, state-of-the-art pediatric emergency and intensive care units, a full spectrum of tertiary subspecialties, including environmental sciences and behavioral pediatrics, a short-stay day hospital, support facilities and services for children and their families, including playrooms, school facilities, and a family resource center, and lastly, innovative communications technologies including a telemedicine consultation service and on-line teaching and tele-conferencing capabilities.

Montefiore Medical Center has provided community services and community-based health care programs for over a century. It is uniquely qualified to implement an initiative as innovative and far reaching as the child health network. This initiative will strengthen and extend Montefiore's commitment to the Bronx community as a whole, and the children of the Bronx in particular. Through the centralization of its diverse services in this borough of New York City, the new Children's Hospital and its satellites will elevate the quality, scope, and accessibility of primary and specialty health care services available to children and their families.

Mr. President, the Senate Labor, Health and Human Services Subcommittee on Appropriations includes a reference to this initiative in its report. The language is as follows:

The health status of children living in the Bronx section of New York City is particularly worrisome with sociodemographic and health status indicators which underscore a need for improved health care services. The Committee is aware of plans to establish a state-of-the-art children's hospital in the Bronx to address the critical needs of its pediatric population. To enhance current Federal child health care programs in the area, the Committee encourages the Department to assist in the planning of this new facility and its potential programs.

Mr. President, I look forward to working with the administration, the Congress, and the medical center on developing a Federal partnership for this initiative. This initiative could serve as a national model of how complete health systems can adapt and respond to the very unique and challenging health needs of children in medically underserved urban communities.●

CONFIRMATION OF CHARLES R. BREYER TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

● Mr. LEAHY. Mr. President, I am delighted that the Senate has approved the nomination of Charles R. Breyer to be a U.S. District Judge for the Northern District of California.

The American Bar Association unanimously found Mr. Breyer to be well-qualified, its highest rating, for this appointment. He has extensive trial experience with the district attorney's office for the city and county of San Francisco, the Department of Justice Watergate Special Prosecution Force, and in private practice. His nomination enjoys the strong support of Senator FEINSTEIN and Senator BOXER.

The Northern District of California has 3 vacancies out of 14 judgeships and desperately needs Charles Breyer to help manage its growing backlog of cases.

I am delighted for Mr. Breyer and his distinguished family that he was confirmed. He will make a fine judge.●

CONFIRMATION OF FRANK C. DAMRELL, JR. TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA

● Mr. LEAHY. Mr. President, I am delighted that the Senate confirmed Frank C. Damrell, Jr. to be a U.S. district judge for the eastern district of California.

The American Bar Association found Mr. Damrell to be well-qualified, its highest rating, for this appointment. He has extensive trial experience as a former deputy attorney general for the State of California, a former deputy district attorney for Stanislaus County, and a trial attorney in the private practice of law for the past 27 years. His nomination enjoys the strong support of Senator FEINSTEIN and Senator BOXER.

I am delighted for Mr. Damrell and his distinguished family that he was confirmed. He will make a fine judge.●

CONFIRMATION OF A. RICHARD CAPUTO TO BE A U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

● Mr. LEAHY. Mr. President, I am delighted that the Senate confirmed A. Richard Caputo to be a U.S. District Judge for the Middle District of Pennsylvania. Mr. Caputo is a well-qualified nominee.

The nominee has decades of legal experience in the private practice of law at the firm of Shea, Shea & Caputo in Kingston, PA. Prior to joining this firm, he served the public interest as a assistant public defender in Luzerne County, PA. The American Bar Association has found him to be qualified for this appointment.

We first received Mr. Caputo's nomination on July 31, 1997. He had a confirmation hearing on September 5. He was unanimously reported by the committee on November 6. With the strong support of Senator SPECTER, this nomination has moved expeditiously through the Committee and the Senate.

I congratulate Mr. Caputo and his family and look forward to his service on the district court.●

PADUCAH GASEOUS DIFFUSION PLANT

● Mr. MCCONNELL. Mr. President, I stand today to recognize the achievements and progress of the Paducah Gaseous Diffusion Plant in Paducah, KY. On October 20, 1997, Industry Week Magazine named the Paducah Gaseous Diffusion Plant one of America's top 10 plants. This would be a greater honor for any manufacturer, but I feel that it is particularly remarkable for the Paducah Gaseous Diffusion Plant. When producing a potentially dangerous material like enriched uranium, extensive safety precautions have to be their first priority. The uranium they produce is shipped not only throughout the United States, but worldwide as well, to be used in the nuclear fuel cycle.

The 275 plants nominated for this honor were judged in 14 areas including productivity, quality of product, employee involvement, cost reduction, and customer focus. The Paducah Gaseous Diffusion Plant is impressive in all of these areas, and their performance has improved immensely over the past 5 years. In 1993, analysts predicted that the plant would have to close in the early 21st century, but continuous improvements have put an end to this speculation. There has been a 65-percent reduction in injuries over the past 5 years, a reduction in environmental concerns, and an impressive 100-percent on-time production delivery rate.

The 1,800 workers of the Paducah Gaseous Diffusion Plant, most of which are Kentuckians, are truly to be commended. These workers and their management team have visited other quality plants for innovative ideas about how to improve their own production. They have formed over 30 problem-solving teams, solicited and acted on advice from employees, and engaged in extensive and continual annual training. The positive labor-management relationship has successfully turned the

750-acre facility into thriving, cost-controlled, internationally competitive business. They have worked remarkably well on a daily basis with inspectors from the Nuclear Regulatory Commission, as well as with officials from the U.S. Enrichment Corp. The U.S. Enrichment Corp., which manages both the Paducah and the Pikeville, OH, plants, supplies 80 percent of the nuclear fuel for nuclear plants in the United States, and maintains 44 percent of the world enrichment market.

I would like to extend my sincere congratulations and thanks to the employees of the Paducah Gaseous Diffusion Plant. The plant's appropriate slogan is ''Survive and Thrive,'' and they have done just that. The Paducah Gaseous Diffusion Plant not only provides jobs and benefits to western Kentuckians, but it helps the United States remain self-reliant for our nuclear fuel production.●

HENRI TERMEER WINS MASSACHUSETTS GOVERNOR'S NEW AMERICAN APPRECIATION AWARD

Mr. KENNEDY. Mr. President, it is a privilege for me to take this opportunity to commend Henri Termeer of Massachusetts on receiving the Governor's New American Appreciation Award from Governor Weld earlier this year.

Henri Termeer is well known to many of us in Congress. He is the chief executive officer and president of Genzyme Corp., the largest biotechnology company in Massachusetts and the fourth largest in the world. When Henri joined Genzyme in 1983, the company had only 35 employees. Under his leadership, Genzyme has grown to over 3,500 employees, including 2,100 in Massachusetts.

Henri was born in the Netherlands and grew up expecting that he would eventually join his father's shoe business. As a young man, he worked in the shoe industry in England, intending to gain training and experience there before returning to work for his father. When he left England, however, he decided to come to America instead of returning to the Netherlands.

After earning a masters degree in business administration at the University of Virginia, Henri joined a pharmaceutical company and spent the next 10 years working in Germany and the United States in various management positions. He left that company in 1983 to become president of Genzyme Corp. and later became the company's chief executive officer as well.

In working with Henri Termeer over the years, I have come to know him as an impressive businessman and as an outstanding leader for the biotechnology industry. He is highly respected in the industry for his knowledge, vision, and commitment, and he has won numerous awards from his peers. As a member of Governor Weld's Council on Economic Growth and Technology and chairman of the Subcommittee on Biotechnology and Pharmaceutical Development, Henri's leadership was responsible for the adoption of a number of broad initiatives that have made Massachusetts an excellent business environment for the biotechnology industry. At the present time, biotechnology is a $1.7 billion industry in Massachusetts that employs over 17,000 people.

Henri was selected to receive the Governor's New American Appreciation Award for his charitable and community activities as well as his business leadership. Among his most important civic accomplishments are his efforts to expand learning opportunities for mentally challenged children, to improve science education for minority students, and to train workers displaced from other industries for new careers in biotechnology.

I congratulate Henri Termeer on this well-deserved award. His success in this country is a brilliant new chapter in America's distinguished immigrant heritage and history. He is a modern symbol that the American Dream is alive and well in our own day and generation. The United States needs more New Americans like Henri Termeer.

REGARDING: FEDERAL SCIENCE AND TECHNOLOGY INVESTMENT

● Mr. FRIST. Mr. President, as a Senator, I am afforded a unique opportunity to see a broad cross section of our Nation. From that perspective, I have had a chance to reflect upon why our country continues to be the envy of the world. Some might say that we are blessed with abundant natural resources. That is true enough, but in the final analysis, it is the American people that have made, and will continue to make, this country great.

We are a nation drawn from diverse backgrounds and ideas. Still, there is a thread that unites us. Our forefathers, who came to this land to build a new life, created in turn a nation of builders. We build homes, we build businesses and factories, but most of all we build futures; we build hope. And, as a people, we rise to meet a challenge. At no time was that more apparent than during World War II. That crisis forced our Nation to make drastic sacrifices in order to survive. The legacy of those choices has driven our economy and our policies ever since. It is one of those legacies, the Federal investment in science and technology, that concerns me today.

Science and technology have shaped our world. It is very easy to see the big things: putting a man on the moon, breakthroughs in genetic research, and the burgeoning world of the Internet. In today's world technology surrounds us: the computer that makes our cars run, lets us talk on the telephone, runs the stoplights, runs the grocery store checkout, and controls the microwave. Our world runs on technology and the American Federal investment in research and development has played a significant part in creating it. Much of our economy runs on technology as well. One-third to one-half of all U.S. economic growth is the result of technical progress. Technology contributes to the creation of new goods and services, new jobs and new capital. It is the principal driving force behind the long-term economic growth and increased standards of living of most of the world's modern industrial societies.

The history of the last five decades has shown us that there is a Federal role in the creation and nurturing of science and technology. But the last three decades have shown us something else: fiscal reality. The simple truth is that we just don't have enough money to do everything we'd like. It took some time for us to realize that and by the time we did, we found ourselves in a fiscal situation that is only now being addressed. As a result, discretionary spending is under immense fiscal pressure.

One only has to look back over the last 30 years to illustrate this trend. In 1965, mandatory spending—entitlements and interest on the debt—accounted for 30 percent of our budget, while 70 percent was discretionary. That meant that 70 percent of the budget could be used for roads, education, medical research, parks, and national defense. Today, just 30 years later, the ratio of discretionary to mandatory spending has reversed. Sixty-seven percent of our budget is spent on mandatory programs, leaving 33 percent of our budget for discretionary spending. Current estimates paint an even grimmer future. By 2012, mandatory spending, the combination of interest and entitlement programs, will consume all taxpayer revenues, leaving nothing for parks, education, roads, or the Federal investment in science and technology. Clearly we as a nation, cannot afford to let this happen.

We have both a long-term problem—addressing the ever increasing level of mandatory spending—and a near-term challenge—apportioning a dwindling amount of discretionary funding. This confluence of increased dependency on technology and decreased fiscal flexibility has created a problem of national significance. Not all deserving programs can be funded. Not all authorized programs can be fully implemented. The luxury of fully funding programs across the board has passed. We must set priorities. By using a set of first or guiding principles, we can consistently ask the right questions about each competing technology program. The answers will help us focus on a particular program's effectiveness and appropriateness for Federal research and development funding. This is the information needed to make the hard choices about which programs deserve support and which do not. Through the application of these First Principles, we can ensure that the limited resources the Federal Government has for science and technology are invested wisely.

There are four First Principles:

First, good science. Our Federal research and development programs must be focused, peer and merit reviewed, and not duplicative; the program must solve the right problem, in the right way.

Second, fiscal accountability. We must exercise oversight to ensure that programs funded with scarce Federal dollars are managed well. We cannot tolerate the waste of money by inefficient management techniques, by government agencies, by contractors, or by Congress itself. A move to multiyear budgeting is a step in the right direction. It will work to provide more stable funding levels and give Congress the opportunity to exercise its much needed oversight responsibility.

Third, measurable results. We need to make sure that Government programs achieve their goals. We need to make sure that as we craft legislation that affects science and technology, it includes a process which allows us to gauge the program's effectiveness. As we undertake this, we must be careful to select the correct criteria. We cannot get caught up in the trap of measuring the effectiveness of a research and development program by passing judgment on individual research projects.

Fourth, the Government should be viewed as the funder of last resort. Government programs should not displace private investment, whether from corporations or venture capitalists. It is not the Federal Government's role to invest in technology that has matured enough to make it to the marketplace. When the Government provides funding for any technology investment program, it must take reasonable steps to ensure that the potential benefits derived from the program will accrue broadly and not, for instance, to a single company.

Accompanying the four First Principles, are four corollaries:

First, flow of technology. This year's Science, Technology and Space Subcommittee hearing have provided ample proof that the process of creating technology involves many steps. The present Federal research and development structure reinforces the increasingly artificial distinctions across the spectrum of research and development activities. The result is a set of discrete programs which each support a narrow phase of research and development and are not coordinated with one another. The Government should maximize its investment by encouraging the progression of a technology from the earliest stages of research up to commercialization, through funding agencies and vehicles appropriate for each stage. This creates a flow of technology, subject to merit at each stage, so that promising technology is not lost in a bureaucratic maze.

Second, excellence in the American research infrastructure. Federal investment in research and development programs must foster a close relationship between research and education. Investment in research at the university level creates more than simply world class research. It creates world class researchers as well. The Federal strategy must continue to reflect this commitment to a strong research infrastructure. We must find ways to extend the excellence of our university system to primary and secondary educational institutions.

Third, commitment to a broad range of research initiatives. An increasingly common theme has emerged from the Science, Technology and Space Subcommittee hearings this year: Revolutionary innovation is taking place at the overlap of research disciplines. We must continue to encourage this by providing opportunities for interdisciplinary projects and fostering collaboration across fields of research.

Fourth, partnerships among industry, universities, and Federal laboratories. Each has special talents and abilities that complement the other. Our Federal dollar is wisely spent facilitating the creation of partnerships, creating a whole that is greater than the sum of its parts.

The principles and corollaries that I have outlined form a framework that can be used to guide the creation of new, federally funded research and development programs and to validate existing ones. An objective framework derived from First Principles is a powerful method to elevate the debate on technology initiatives. It increases our ability to focus on the important issues, and decreases the likelihood that we will get sidetracked on politically charged technicalities. It also serves as a mechanism to ensure that Federal research and development programs are consistent and effective.

The four principles and four corollaries serve different purposes: The First Principles help us evaluate an implementation of a research and development program.

First, good science.

Second, fiscal accountability.

Third, measurable results.

Fourth, Government as funder of last resort.

The corollaries help us establish a consistent set of national goals—the vision of an overall research and development program.

First, creation of a flow of technology.

Second, excellence in the American research infrastructure.

Third, commitment to a broad range of research initiatives.

Fourth, partnerships among industry, university, and federal laboratories.

Mr. President, Congress continues to face a monumental budgetary challenge. Despite our accomplishment this year of passing the first balanced budget since 1969, we have yet to face the most daunting challenge: bringing entitlements under control at a time of huge demographic shifts toward increasing numbers of recipients. Even as we work toward this difficult goal, we cannot lose sight of the near-term management challenge in making the most of our limited discretionary funds. The Federal investment in research and development has paid handsome dividends in raising our standard of living. It is an investment we cannot afford to pass up.●

ARAB-AMERICAN AND CHALDEAN COUNCIL 1997 ANNUAL CIVIC AND HUMANITARIAN AWARDS BANQUET

● Mr. ABRAHAM. Mr. President, I rise today to acknowledge an important event which is taking place in the State of Michigan. On this day, December 5, 1997, many have gathered to celebrate the Arab-American and Chaldean Council [ACC] Annual Civic and Humanitarian Awards Banquet. Each of the individuals in attendance deserve special recognition for their commitment and steadfast support of the Arab-American and Chaldean communities.

I am pleased to recognize the recipients of this evening's awards: Mr. Brian Connolly and Ms. Beverly B. Smith, Civic and Humanitarian, Mr. John Almstadt, 1997 Leadership Award, Senator Dick Posthumus, 1997 State Leadership Award, and Ms. Elham Jabiru-Shayota, Mr. Andrew Ansara, and Mr. George Ansara Entrepreneurs of the Year. Each of these recipients should take great pride in receiving these distinguished awards.

While it is important to pay special tribute to the awardees, it is also essential to honor the citizens of the Arab-American and Chaldean communities. Each of you that has worked to strengthen cultural understanding have contributed greatly to the State of Michigan. For the past 18 years, the ACC has provided tireless support and steadfast dedication to Arabic- and Chaldean-speaking immigrants and refugees. During the past fiscal year, 1996–97, ACC was able to serve over 18,000 clients and cases. This coming year will be an exciting one for ACC. Six of ACC's outreach locations will be consolidated into one location at the Woodward Avenue and Seven Mild Road Area, allowing ACC to serve an even greater client base. Through job placement programs and mental health services, ACC has significantly enhanced the lives of many in our community. As you gather this evening to honor these awardees, I challenge each of you to continue to be active participants in your respective communities.

To the Arab-American and Chaldean-American communities and to the awardees, I send my sincere best wishes. May the spirit of this evening continue to inspire each of you.●

1997 HUMAN RELATIONS AWARD OF THE GREATER DETROIT INTERFAITH ROUND TABLE OF THE NATIONAL CONFERENCE

● Mr. LEVIN. Mr. President, I rise today to honor Alex Trotman and Mandell ''Bill'' Berman who will receive the 1997 Human Relations Award of the Greater Detroit Interfaith Round Table of the National Conference, on November 18, 1997. This important awards ceremony will take place during the Greater Detroit Interfaith Round Table's 50th Annual Dinner.

The Greater Detroit Interfaith Round Table was established in 1940 as the local chapter of the National Conference of Christians and Jews. The Detroit community quickly supported the NCCJ's goal of providing a forum where people of varied faiths could explore and celebrate their differences. During the last 57 years, the Interfaith Round Table has promoted such understanding through its many popular programs and fora.

The Human Relations Award recognizes leaders in the community ''for moving us forward in building a city, State, and Nation committed to the ideals of dignity, justice, and respect for all people.'' This year's recipients have displayed a strong personal commitment to promoting understanding among all races, religions, and cultures. Their great efforts are an inspiration to us all.

Alex Trotman is chairman of the board of directors and chief executive officer of Ford Motor Co. He was born in Middlesex, England, and came to the United States in 1969. Since coming to America, Mr. Trotman has used his unique vantage point to promote understanding among different people. He is currently a member of several organizations which promote international exchange, such as the Chase International Advisory Committee, the America-China Society, and the United States-Japan Business Council.

Bill Berman is a Detroit native and, like me, a product of its public school system. After a distinguished career in industry, Mr. Berman is currently a member of the board of the Dreyfus Corp. He has also been closely involved with supporting his community. He has served in leadership positions of the Skillman Foundation, JESNA, and its Berman Research and Evaluation Center, Detroit Jewish Welfare Federation, and the United Way.

Mr. President, I know my Senate colleagues join me in congratulating Alex Trotman and Mandell ''Bill'' Berman on receiving the 1997 Human Relations Award of the Greater Detroit Interfaith Round Table.●

THE CURRENT CRISIS INVOLVING IRAQ

● Mr. MCCAIN. Mr. President, last week I submitted a statement for the record discussing my views on the situation in Iraq and the need for the United States to remain resolute in its dealings with the regime of Saddam Hussein.

Today, I would like to submit a paper on the subject written by Tony Cordesman, currently at the Center for Strategic and International Studies and formerly a member of my staff. Tony's paper offers an excellent summation of Iraqi intentions and capabilities as well as providing expert analysis of what is at stake for the United States and its interests in the Middle East as a result of this most recent crisis involving Iraq and the United Nations Special Commission.

I urge all of my colleagues in the Senate and the House to read this paper carefully. It offers insightful commentary on the potential ramifications of various policy alternatives that the United States and the United Nations may select in responding to Saddam's latest provocation. Toward that end, I respectfully request that Dr. Cordesman's paper be included in the RECORD, as well as this statement.

The paper follows:

WHAT IS AT STAKE IN THE CRISIS WITH IRAQ—THE THREAT OF IRAQI WEAPONS OF MASS DESTRUCTION AND U.S. MILITARY OPTIONS

(By Anthony H. Cordesman)

Iraq's process of proliferation is so complex that it is sometimes difficult to determine just how serious the violations that UNSCOM has discovered really are, or to put these violations in perspective relative to what UNSCOM has already accomplished. Attachment One provides a short summary of UNSCOM's most recent conclusions relating to Iraq's efforts to cheat the UN. Attachment Two describes Iraq programs before and during the Gulf War, what UNSCOM has accomplished in the seven years that have followed, and what remains unknown.

IRAQ'S CLANDESTINE BREAKOUT CAPABILITY

These attachments show that the issue is not one of sweeping up the details, but rather one of dealing with massive violations, some of which occurred as recently as August, 1997. At the same time, it is important to understand that many UNSCOM and US experts believe Iran has started completely separate new programs since the Gulf War, which are so secret and dispersed that they are almost impossible to detect. These programs may be largely at the research and development level, but they may give Iraq a major ''break out'' capability to rapidly produce and redeploy weapons of mass destruction the moment that sanctions are lifted.

Major possibilities that could be accomplished in small research facilities and which could be rapidly moved or dispersed include:

UNSCOM and the IAEA's success have created new priorities for Iraqi proliferation. The UN's success in destroying the large facilities Iraq needs to produce fissile materials already may well have led Iraq to focus on covert cell-like activities to manufacture highly lethal biological weapons as a substitute for nuclear weapons.

All of the biological agents Iraq had at the time of the Gulf War seem to have been ''wet'' agents with limited storage life and limited operational lethality. Iraq may have clandestinely carried out all of the research necessarily to develop a production capability for dry, storage micro-power weapons which would be far easier to clandestinely stockpile, and have much more operational lethality.

Iraq did not have advanced binary chemical weapons and most of its chemical weapons used unstable ingredients. Iraq has illegally imported specialized glassware since the Gulf War, and may well have developed advanced binary weapons and tested them in small numbers. It may be able to use a wider range of precursors and have developed plans to produce precursors in Iraq. It may have improved its technology for the production of VX gas.

Iraq is likely to covertly exploit Western analyses and critiques of its pre-war proliferation efforts to correct many of the problems in the organization of its proliferation efforts, its weapons design, and its organization for their use.

Iraq bombs and warheads were relatively crude designs which did not store chemical and biological agents well and which did a poor job of dispersing them. Fusing and detonation systems did a poor job of ensuring detonation at the right height and Iraq made little use of remote sensors and weather models for long-range targeting and strike planning. Iraq could clandestinely design and test greatly improve shells, bombs, and warheads. The key tests could be conducted using towers, simulated agents, and even indoors. Improved targeting, weather sensors, and other aids to strike planning are dual-use or civil technologies that are not controlled by UNSCOM. The net impact would be weapons that could be 5–10 times more effective than the relatively crude designs Iraq had rushed into service under the pressure of the Iran-Iraq War.

UNSCOM and the IAEA's success give Iraq an equally high priority to explore ways of obtaining fissile material from the FSU or other potential supplier country and prepare for a major purchase effort the moment sanctions and inspections are lifted and Iraq has the hard currency to buy its way into the nuclear club. Iraq could probably clandestinely assemble all of the components of a large nuclear device except the fissile material, hoping to find some illegal source of such material.

The components for cruise missiles are becoming steadily more available on the commercial market, and Iraq has every incentive to create a covert program to examine the possibility of manufacturing or assembling cruise missiles in Iraq.

UN inspections and sanctions may also drive Iraq to adopt new delivery methods ranging from clandestine delivery and the use of proxies to sheltered launch-on-warning capabilities designed to counter the U.S. advantage in airpower.

Iraq can legally maintain and test missiles with ranges up to 150 kilometers. This allows for exoatmospheric reentry testing and some testing of improved guidance systems. Computer simulation, wind tunnel models, and production engineering tests can all be carried out clandestinely under the present inspection regime. It is possible that Iraq could develop dummy or operational high explosive warheads with shapes and weight distribution of a kind that would allow it to test concepts for improving its warheads for weapons of mass destruction. The testing of improved bombs using simulated agents would be almost impossible to detect as would the testing of improved spray systems for biological warfare.

Iraq has had half a decade in which to improve its decoys, dispersal concepts, dedicated command and control links, targeting methods, and strike plans. This kind of passive warfare planning is impossible to forbid and monitor, but ultimately is as important and lethal as any improvement in hardware.

There is no evidence that Iraq made an effort to develop specialized chemical and biological devices for covert operations, proxy

warfare, or terrorist use. It would be simple to do so clandestinely and they would be simple to manufacture.

The key point is that only effective UNSCOM operations can deter Iraq from rapidly rebuilding its wartime capabilities, and sparking a new arms race that is certain to lead Iran to reply in kind and present major new problems for U.S. forces in the region and our Southern Gulf allies.

U.S. MILITARY OPTIONS

The U.S. must be careful to try to preserve as much international consensus as it can in support of the UNSCOM effort. It must be careful to avoid using threat or force in a way that could further split the U.N. Security Council, or win this round and lose the war. We need to be sensitive to humanitarian concerns about punishing the Iraqi people in ways that do not really punish Saddam. We also need to be careful about the kind of threats and token strikes that have no real effect on what Saddam holds vital, and which end in convincing him that he can win a war of sanctions against the U.S., and allowing Saddam to show that he can defy the U.N. and U.S. with impunity.

We also need to understand that UNSCOM and sanctions are not a failure. Iraq imported over $80 billion worth of arms during the Iran-Iraq War. It was importing around $3 billion worth of arms a year at the time of the Gulf War. It needs a minimum of about $1.5 billion a year worth of imports simply to keep its military machine alive. Iraq, however, has had no significant military imports since 1990, and has had no successes in mass producing a single advanced weapon in Iraq. It has a $20 billion deficit in arms imports, and it has not been able to import a single new weapon or technology to react to the devastating lessons of the Gulf War. It has less than half the tanks and half the combat aircraft it did at the time of the Gulf War.

UNSCOM is not perfect, but it is the most successful arms control regime in history. It has destroyed virtually all of Iraq major facilities for producing missiles, and chemical, biological, and nuclear weapons. Virtually all of these facilities survived the Gulf War. It has supervised the destruction of nearly 100,000 chemical and biological weapons and/or major components and manufacturing devices for such weapons, and thousands of tons of precursors for making chemical weapons.

It was UNSCOM that discovered Iraq's massive biological weapons and VX nerve gas programs, and it did so in 1995, four years after the war was over. In the six years since the cease-fire, there has never been a six month reporting period in which UNSCOM has not made another major discovery, including the period between April and October, 1997. It is UNSCOM intrusive monitoring program which limits Iraq's unceasing clandestine efforts and prevents Iraq from rapidly manufacturing large numbers of advanced biological and chemical weapons.

Keeping UNSCOM alive and effective is far more important than forcing a military showdown with Saddam. If threats and negotiation can work, they should be allowed to do so. Unilateral U.S. military action, or action with a limited or forced international consensus, should be a last resort because making Saddam back down this time might come at the cost of undermining or ending support for sanctions.

At the same time, force and no inaction must be the last resort. Preventing Iraq from proliferating and a new and totally destabilizing arms race between Iran and Iraq is a vital national security interest. So is the defense of our Arab allies and Israel, and the protection of our own power projection forces. Our economy is dependent on the global price and availability of oil, and the Persian Gulf is the key to energy security.

Fortunately, the US does have military options that it can execute with and without allied support. They also go far beyond the kind of pointlessly expensive slap on the wrist that the US has used in firing cruise missiles against targets Saddam does not really value like an intelligence headquarters, or military targets with cruise missiles could not destroy.

Some of these options do not require immediate US military action. The US can shift the burden of triggering military action to Saddam. These include ''halt or shoot'' options like forbidding all Iraqi military flights. This could include only combat fixed wing aircraft, or all aircraft including helicopters and transports. A nation-wide no-fly zone would paralyze and weaken critical Iraqi military capabilities. Another step would be a demand for a nation-wide halt to all armored movements larger than battalion sized units. This would destroy the Iraqi army's ability to train and exercise. A third such option would be to attack and destroy any facility where UNSCOM is denied timely access. A fourth option would be to destroy any military facility or production plant where new construction or manufacturing activity began. A fifth option would be to destroy any facility where Iraq has interfered with the UN monitoring equipment or tags. None of these options would hurt the Iraq people. All would threaten the ''crown jewels'' of Saddam's regime.

There are other ''crown jewels'' that the US could attack without waiting and which would not hurt the Iraqi people. These include the airbases with Saddam's remaining MiG–29s, Su–24s, and Mirage F–1s: The only aircraft he has left that really matter. The US does not have to destroy the entire Iraqi Air Force. Few in Iraq would mourn the destruction of the Special Republican Guards, and this force is critical to Saddam's security. The US could expand these attacks to cover all critical Iraqi security facilities, and this time the attacks should be designed to kill as many occupants as possible and should be sustained until Saddam completely backs down. Destroying Iraq's remaining military production facilities on a step-by-step basis would confront Saddam with the risk of losing his conventional military capabilities. Ordinary Iraqis are also unlikely to mourn the destruction of Saddam's new palaces, and this gives us at least 17 targets that were built or rebuilt after UN sanctions began.

In short, we do have good options if we are forced to use them and if we have the will to escalate beyond military tokenism. Further, these options will exist long after the current crisis is over. They can be made part of a clear declaratory doctrine regarding Iraq, and such a doctrine is clearly needed. It should be made unambiguously clear to the world that the US will enforce the terms of the UN Cease-fire until Iraq's capabilities to produce weapons of mass destruction are destroyed and will not allow Iraqi to rebuild. The US should not telegraph its punches by specifying a given action for a given violation, but it should make it clear to the world as well as Saddam that the US will always act. The US should also make it clear that it will raise the cost to Saddam each time he provokes another crisis and that he will force escalation if other incidents follow. We should not be trigger happy, but we must not let ''sanctions fatigue'' lead to ''proliferation fatigue'' and a horrifying new arms race in the Gulf.

IRAQ'S ''CLANDESTINE BREAK OUT CAPABILITY:'' COVERT PROGRAMS IRAQ COULD HAVE UNDERTAKEN SINCE THE CEASE-FIRE THAT UNSCOM MIGHT NOT DETECT OR PREVENT

(By Anthony H. Cordesman)

UNSCOM and IAEA's success have created new priorities for Iraqi proliferation. The UN's success in destroying the large facilities Iraq needs to produce fissile materials already may well have led Iraq to focus on covert cell-like activities to manufacture highly lethal biological weapons as a substitute for nuclear weapons.

All of the biological agents Iraq had at the time of the Gulf War seem to have been ''wet'' agents with limited storage life and limited operational lethality. Iraq may have clandestinely carried out all of the research necessarily to develop a production capacity for dry, storage micro-power weapons which would be far easier to clandestinely stockpile, and have much more operational lethality.

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Iraq bombs and warheads were relatively crude designs which did not store chemical and biological agents well and which did a poor job of dispersing them. Fusing and detonation systems did a poor job of ensuring detonation at the right height and Iraq made little use of remote sensors and weather models for long-range targeting and strike planning. Iraq could clandestinely design and test greatly improve shells, bombs, and warheads. The key tests could be conducted using towers, simulated agents, and even indoors. Improved targeting, weather senors, and other aids to strike planning are dual-use or civil technologies that are not controlled by UNSCOM. The net impact would be weapons that could be 5–10 times more effective than the relatively crude designs Iraq had rushed into service under the pressure of the Iran-Iraq War.

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testing of improved guidance systems. Computer simulation, wind tunnel models, and production engineering tests can all be carried out clandestinely under the present inspection regime. It is possible that Iraq could develop dummy or operational high explosive warheads with shapes and weight distribution of a kind that would allow it to test concepts for improving its warheads for weapons of mass destruction. The testing of improved bombs using simulated agents would be almost impossible to detect as would be testing of improved spray systems for biological warfare.

Iraq has had half a decade in which to improve its decoys, dispersal concepts, dedicated command and control links, targeting methods, and strike plans. This kind of passive warfare planning is impossible to forbid and monitor, but ultimately is as important and lethal as any improvement in hardware.

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THE NEXT GENERATION INTERNET

● Mr. INOUYE. Mr. President, the Internet is transforming every aspect of how a university performs research, teaches its students and reaches out to the public. In Hawaii and Alaska, the importance of the Internet is multiplied even more by the vast distances that separates us from the other 48 states, as well as the unique internal geography of our states which separate our citizens from each other by water, mountains or long distances.

In October 1996, the Clinton Administration unveiled its Next Generation Internet (NGI) initiative, emphasizing that the Internet is the biggest change in human communication since the printing press. The initiative proposed a $100 million per year federal program to create the foundation for the networks of the 21st century. Approximately $95 million is being appropriated this year for the NGI.

One of the initial NGI project goals is to connect at least 100 universities and national labs at speeds 100 to 1,000 times faster than today's Internet. The University of Hawaii and University of Alaska, along with many other institutions, have joined the Internet2 initiative which shares this objective.

Unfortunately, high-speed connectivity comparable to what the NGI project is bringing to research universities throughout the country is not even available, much less affordable, for the universities of our most remote states of Alaska and Hawaii. These are the states where telecommunications is most needed to counteract the isolation that is imposed by our remoteness.

It must be noted first and foremost that our public universities in Alaska and Hawaii have already dug deep to pay their own fair share to obtain Internet connectivity. These two institutions already allocate more internal funding for Internet connections than any other university, yet they receive far less capacity for their dollars importance on the Internet, these universities are faced with urgent needs that cannot be reasonably accommodated through the commercial marketplace or federal grant mechanisms currently in place.

For example, as part of the Internet2 project, major research universities are now planning increases in speed from 45 Mbps (million bits per second) to 150 Mbps and even 600 Mbps. According to the founding project director for Internet2, the expected cost for a 150 Mbps connection will average about $300,000 per year for mainland research universities.

The University of Hawaii already pays much more than this—$448,000 per year—and this buys only a 6 Mbps connection from Hawaii to the mainland. The University of Alaska now pays $324,000 per year for a 4.5 Mbps connection. In other words, compared to the average that other universities are expected to pay for their NGI-capable connections, Hawaii is already paying 50 percent more for 1/25 of the capacity, and Alaska is paying nearly 10 percent more for 1/33 of the capacity.

The rural states on the mainland found that their connection costs were higher than in urban areas and appealed for assistance. The National Science Foundation (NSF) recognized that the maximum $350,000 3-year grant to assist in establishing connections to its Very High Speed Backbone Network Service was not adequate to meet the costs in these rural states. In response, the NSF agreed to make 18 rural states, not including Alaska and Hawaii, eligible for special supplements of up to $200,000 over and above the $350,000 maximum grant.

These rural mainland universities can obtain 45 Mbps connections for prices in the range of $150,000 to $360,000 per year. In comparison, the quoted prices for these connections to Alaska and Hawaii are $2.8 million and $2.5 million respectively, escalating to $6 million or more a year to meet future requirements. Further, even if funds were available within the states to pay these costs on an ongoing basis, the capacity is not readily available or even in place on an ongoing basis, the capacity is not readily available or even in place on the existing saturated fiber optic systems that connect Hawaii and Alaska to the rest of the country.

Our research universities in Alaska and Hawaii need the same level of connectivity as their counterparts in California, Massachusetts, North Dakota and Colorado. Our remote universities are already paying much more and getting much less for their limited internal funding.

This is not just a problem for our universities, but is fundamental to the overall economic development of our states. Ensuring high-speed Internet access to the only public institutions of higher education in Hawaii and Alaska also supports K–12 education, state government, and many other education, research and public sector organizations to which our universities provide technological leadership, support and services as the intellectual cornerstones of our communities.

It is imperative that the federal government ensure fair access across the nation to the Internet and to our own federal initiatives such as the NGI. Just as a 32-cent stamp provides the same service anywhere in the country, so too must we consider ways to equalize access to the information superhighway. Further, we must solve this structural problem not just for the short term, but on a permanent basis.

We urge the federal agencies which are receiving $95 million for the NGI this year, and which are planning on additional funding in the years to come, to take upon themselves the responsibility to ensure that the NGI reaches not just to those places that can be reached cheaply and easily, but to all fifty states. Technical staff at each university have been working long and hard to identify any possible means of achieving affordable high speed connectivity for their state. We ask that, as a nation, we reach out to find a stable and lasting solution to this urgent problem.

Mr. STEVENS. Mr. President, I concur with Senator INOUYE that this is a critical problem for Alaska and Hawaii. I would suggest that it is in the interest of all States to ensure that no State is left behind as we enter the digital age.

Researchers in Alaska and Hawaii must have the same access to resources that their colleagues in other areas of the country have—without compatible access our universities will be left behind in the race to secure research funding and they will not be able to compete when it comes to attracting top researchers and professors.

There is another side to the problem. Just as our universities will be cut off from their colleagues—universities in the continental United States will be cut off from the expertise and resources that are housed in the universities of Alaska and Hawaii.

Senator INOUYE laid out our concerns with respect to participation in the next generation Internet project, I would like to take what he said one step further.

The technology—the high speed access to the Internet that is the goal of the next generation Internet project—is currently being slated to be developed on top of the existing Internet infrastructure.

The existing Internet infrastructure can be visualized as a series of pipes, of varying capacity. The main conduit of the pipe system connects the West Coast to the East Coast—essentially through the middle of the United States.

Those States that host the main conduit are fortunate—they have low cost access to relatively high capacity. Those States that are not close to the main conduit face increasing costs the further they are from the main conduits.

The NGI project has agreed to include some States—like Montana that face challenges connecting to the main conduits. However, our States—Alaska and Hawaii—have been essentially written off.

This isn't just a question of our universities being left behind. It is a question of our entire states being left behind as we enter the new millennium when high speed connectivity will be essential to every aspect of life.

We are already witnessing mass scale technological convergence. From my computer here in the Senate I can make telephone calls, I can listen to the radio, I can watch television—all over the Internet. This is not possible from most of Alaska and Hawaii—the connections are simply too poor.

Currently data traffic is growing at a much faster pace than telephone traffic—if this continues, early in the next century data traffic will surpass telephone traffic. Where will that leave Alaska and Hawaii if we don't have the infrastructure in place to send data?

Right now many villages in rural Alaska can only access the Internet by dialing a 1–800 number which connects them to an Internet service provider in Anchorage. They are connected to the Internet at speeds of around 1200 BAUD. Not only is this access slow—considering that most Americans now normally connect at at least 28,800 BAUD—but it is also costly.

I join Senator INOUYE in asking that those universities and agencies who receive part of the $95 million that we have provided for the next generation Internet project use the funds in a manner that will advance the interests of our country as a whole.

I also ask for the assistance of private industry in helping us to solve the technical problems that our States face in obtaining connectivity levels that are comparable to the rest of the country. As one of the witnesses said earlier this week at the NGI hearing before the Science, Technology, and Transportation Subcommittee, it will take an innovative solution to provide Alaska with good connectivity.

Conventional solutions, such as laying high capacity fiber to every village are simply not feasible economically at this time.

I am committed to finding a solution to these problems—I know that Senator INOUYE is too—I hope that our colleagues will join us and that this will be viewed as a national problem and not just as a competition for Federal research funds.●

J. GARY MATTSON

● Mr. GRASSLEY. Mr. President, I would like to acknowledge the accomplishments of J. Gary Mattson, of Waterloo, IA. Gary is an individual who has shown a great dedication to supporting people with disabilities, strengthening families, and serving his community.

Gary is a leader in the field of helping people with disabilities, especially during his 29 years of service with Exceptional Persons, Inc. Exceptional Persons is a private, nonprofit organization in Waterloo, IA that provides a wide range of services to those with disabilities including residential and family services, as well as child care. For the last 14 years, Gary has served as its executive director.

Gary brings a deep passion to his work, reflected by the fact that the people served by Exceptional Persons always come first.

Black Hawk County and its communities and people, especially those who have disabilities and their families, have benefited from his caring commitment. I salute the work Gary has done on behalf of disabled individuals and his community. I wish him the best and I encourage those who know Gary to use his years of dedication as a role model for public service.●

TRIBUTE TO GARY SAUTER

● Mr. KENNEDY. Mr. President, December 6 marks the 50th birthday of one of the Nation's finest labor leaders. Gary Sauter has been a member of the United Food and Commercial Workers and its predecessor, the Retail Clerks International Association, for over 30 years, and he has done an outstanding job.

Gary comes from a hard-working union family. His father and mother were both members of the Retail Clerks Union in Baltimore. In fact, they became engaged after a labor dispute.

Following in their footsteps, Gary joined the Retail Clerks in 1965, as a cashier for Safeway Stores while he was attending the Baltimore College of Commerce. The union quickly recognized his ability and, in 1969, Gary became a department store organizer. He worked effectively to organize workers at the Hoschschilds Kohn department store in Baltimore, and went on to become regional coordinator for the Retail Clerks' Southeastern Division.

Later, Gary became organizing director for Local 400 of the Retail Clerks in Landover, MD. In large part because of Gary's efforts, the local grew to one of the largest and most effective local unions in the Washington, DC area.

In 1988, after the Retail Clerks merged with the Amalgamated Meat Cutters to form the United Food and Commercial Workers' Union, Gary joined the new international as special assistant to the president. He continued to be a leader and, in 1994, was elected international vice president of the union. Later that year he was chosen to serve as director of the union's Legislative and Political Affairs Department, a position he holds today.

Throughout his distinguished career Gary has done a brilliant job for the workers he represents. He has never lost sight of the importance of their needs, and he has worked skillfully and tirelessly to improve the wages and working conditions of all Americans.

It is an honor to pay tribute to this impressive leader. I extend my best wishes to Gary, his wife Pat, and his children, Christopher and Amy, on this auspicious milestone. Well done, Gary, and keep up the great work.●

WOODROW WOODY

● Mr. ABRAHAM. Mr. President, I rise today to acknowledge an important event in the life of one of my dearest friends. On Saturday, November 15, 1997, Woodrow Woody will celebrate his 90th birthday. I am pleased and honored to send my heartfelt best wishes to him on this important day.

Woodrow Woody is someone that I truly admire. Not only is Woodrow a successful businessman in Detroit, MI, he is a man who is deeply committed to his wife, Anne and his community. Through his tireless dedication to his community and the many organizations to which he gives much of his time, he has and continues to touch the lives of many in the State of Michigan.

On this momentous day, I say thank you to Woodrow. He has inspired me and served as a second father to me throughout the years. His wisdom and integrity continue to motivate me and countless others. Again, I am honored to recognize Woodrow on the occasion of his 90th birthday in the U.S. Senate.●

OECD SHIPBUILDING AGREEMENT

● Mr. BREAUX. Mr. President, I strongly support passage of S. 1216, legislation to implement the OECD Shipbuilding Agreement. S. 1216 was favorably reported out of both the Senate Finance and Commerce Committees.

The issue of unfair foreign shipbuilding practices is very important to my State. Louisiana is one of the premier shipbuilding states in the country. Over 27,000 Louisiana jobs are impacted by constructing or repairing ships. We have almost every conceivable type and size shipyard, from a huge primarily defense oriented yard to smaller and medium sized strictly commercial yards. My interest in this issue spans the entire range of shipbuilding.

I believe it's important to state again for the record the historical context that surrounds the OECD Shipbuilding agreement and this implementing legislation. If nothing else, we should learn from history. 1974–1987, saw worldwide overall demand for ocean going vessels decline 71%. United States merchant vessel construction went from an average of 72 ships/year in the 1970's to an average of 21 ships/year in the 1980's. During this period, governments in all the shipbuilding nations, with the exception of the United States, dramatically stepped up aid to their shipyards with massive levels of subsidies in virtually every form.

In 1981, the U.S. government unilaterally terminated commercial construction subsidies to U.S. yards. At

the same time, U.S. defense shipbuilding increased in an effort to reach a 600 ship Navy. U.S. defense shipbuilding construction went from an average of 79 ships/year in the 1970's to an average of 95 ships/year in the 1980's. U.S. international commercial shipbuilding, on the other hand, was virtually abandoned to subsidized foreign yards.

The end of the 1980's and the end of the ''Cold War'' saw a Department of Defense reevaluation of the need for a 600 ship Navy. The U.S. shipbuilding industry was consequently forced to reevaluate its need to secure commercial ship construction orders in order to stay in business. In June of 1989, the U.S. shipbuilding industry, represented at that time by the ''Shipbuilders Council of America'', filed a section 301 claim against the major shipbuilding countries of the world for unfair subsidies and practices that were injuring the U.S. industry.

Later that year, however, U.S. Trade Ambassador Carla Hills, convinced the industry that a better, more effective way to eliminate the unfair foreign subsidies and practices was through multilateral negotiations. The industry decided to give international negotiations a chance and therefore withdrew its Section 301 claim. The U.S. then encouraged the responsible trading partners to enter into negotiations and the five year OECD quest to negotiate the elimination of trade distorting shipbuilding practices had begun.

From late 1989 to late 1994, the OECD negotiations were on and off again. During 1993, when the talks had seemingly collapsed, I introduced a bill in the Senate (S. 990) and then Congressman Sam Gibbons introduced a bill in the House (H.R. 1402), that would have unilaterally triggered significant sanctions against ships constructed in foreign subsidized yards when those ships called upon the United States. Despite prompting a flood of domestic opposition from those fearing the bills would start a trade war, the introduction of these bills did help re-ignite the stalled OECD talks.

From June 1989 until the present agreement was signed on December 21, 1994, the U.S. objective and the U.S. industry's urgent request appeared to be simple: ''Eliminate subsidies and we can compete.'' When the Clinton administration came into office, to its credit, it proposed a ''Shipyard Revitalization Plan.'' A main feature of this plan was new Title XI financing for commercial export orders.

In a Senate Finance Committee, Trade Subcommittee hearing on November 18, 1993, a year before the agreement was signed, Assistant U.S.T.R. Don Phillips described the plan and its relationship to the OECD Agreement as follows:

Finally, this five-point program is a transitional program, consistent with federal assistance to other industries seeking to convert from defense to civilian markets. In addition, it seeks to support, not undercut, the negotiations that are currently underway in the OECD. *In this regard, we have made clear our intention to modify this program, as appropriate, so that it would be consistent with the provision of a multilateral agreement—-if and when such an agreement enters into force.* (emphasis added).

In all the comments I have heard to date about this agreement, I have yet to hear of a scenario whereby U.S. industry is better off fighting unfair shipbuilding practices without the agreement than it is with the agreement. The ''loopholes'' referred to by opponents will become the rule rather than limited and temporary exceptions. The Congress is not prepared in this time of fiscal restraint to match their subsidies with ours.

Concerns about the agreement putting the Jones Act domestic build requirement at risk are contradicted by the fact that the largest ''Jones Act'' carriers in the country, who avidly support this agreement. They say this implementing bill strengthens the Jones Act. If that protection were not enough, we added language providing for an expedited procedure for U.S. withdrawal from the agreement if the Jones Act were perceived to be undermined.

Opponents argue that new export orders associated with the current U.S. title XI export financing program will be lost under the agreement. These orders exist, however, because a title XI financing advantage is in place due to the standstill clause in the OECD agreement. If we reject the agreement, we lose the standstill clause, and consequently we lose our current title XI advantage. Considering the European Union routinely provides billions of dollars of direct shipyard aid each year and absent this agreement will soon redirect and increase this aid, matching our U.S. financing program will require minimal EU effort and change.

If this debate is really about competing for international export orders, and unless we are prepared to enter into a subsidies race with our competitors, I don't see how we can reject this agreement. Not only is Congress continually faced with dire budgetary decisions, such as cutting Medicare and Medicaid, but the Department of Defense has indicated that it is reluctant and unwilling to fund commercial shipbuilding subsidies through its DOD accounts.

Greater competition from our trading partners due to increasing world shipbuilding capacity and the inevitable decrease in demand for new oceangoing vessels, will lead us to the same untenable situation that confronted our industry in 1981 if we do not approve this agreement. We won't have adequate trade laws to protect our industry and we won't have enough subsidies to successfully compete for international orders.

Last year, the full House of Representatives considered implementing legislation for the OECD Shipbuilding Agreement. A substitute amendment offered by Congressman HERB BATEMAN passed the Chamber, but was inconsistent with the agreement. The Senate failed to consider an implementing bill before adjournment though we made relentless efforts to address the concerns of opponents and engage them in constructive dialog.

Every time opponents have raised an objection, we have tried to address it in a manner consistent with the agreement.

First, when they said they needed explicit clarification that the United States would not under any circumstances change its Jones Act, we did it and more.

Second, when they said they needed explicit clarification that our national security interests would be protected and that the definitions of ''defense features'' and ''military reserve vessels'' would be decided by the Secretary of Defense, we did it and more.

Third, when they said they needed 30 additional months of current Title XI financing terms to cover projects close to having their applications in, we did it and more.

In fact, S. 1216, as amended by Senator LOTT and myself, meets every legitimate concern raised by opponents. I am including a detailed comparison of this bill with the issues raised in the Bateman amendment.

This agreement is not perfect because there is no such thing as a perfect agreement. To overlook its significant features, such as elimination of foreign subsidies while ensuring that the U.S. is the only country of all the signatories able to reserve its domestic market from foreign competition, provides an inaccurate view at best.

In conclusion, Mr. Chairman, there are no opponents to the U.S. shipbuilding and broader maritime industry in this debate today. We simply have different members with different constituencies and different priorities. We must decide as a Senate, however, if we want to provide our own U.S. commercial shipyards the right and ability to compete on a level playing field for international work.

I join Senator LOTT in promoting the entire U.S. shipbuilding industry. America needs both a competitive U.S. commercial shipbuilding industry as well as a strong defense shipbuilding industry. We can have both if we enact the OECD Shipbuilding Agreement legislation. I look forward to a vote on this agreement in the U.S. Senate before March 1, 1998.

The material follows:

HOW S. 1216 (AS AMENDED BY SENATE FINANCE AND COMMERCE COMMITTEES) COMPARES TO H.R. 2754 (AS AMENDED BY CONGRESSMAN BATEMAN)

TITLE XI

S. 1216 includes Title XI transition language more favorable than the Bateman Amendment. Under S. 1216, the U.S. would be able to keep its current (25-year/87.5% of the project cost) Title XI financing through January 1, 2001. The Bateman Amendment extended such terms through January 1, 1999.

S. 1216, like the Bateman Amendment, provides a full three-year delivery ''grace period'' for ships that receive 25-year Title XI

financing. Therefore under S. 1216, such ships would have to be delivered no later than January 1, 2004. S. 1216, like the Bateman Amendment, allows for further extending the delivery date in the case of ''unusual circumstances'' (defined the same as the Bateman Amendment).

S. 1216 includes a provision not in the Bateman Amendment that allows the U.S. to make the current favorable terms of the Title XI program available to U. S shipyards when competing against bids of subsidized yards in countries that are not signatories to the OECD Agreement. This provision: (1) provides an incentive for such nations to join the OECD Shipbuilding Agreement and, (2) protects U.S. shipyards from unfair competition from subsidized yards in nations that fail to join the Agreement.

JONES ACT

S. 1216 provides extraordinary protections for the Jones Act that fully meet the objectives of the Bateman Amendment.

S. 1216 states unequivocally that US coastwise laws are completely unaffected by this Agreement. This provision is virtually identical to the Bateman Amendment.

S. 1216 states that nothing in this Agreement shall undermine ''the operation or administration of our coastwise laws''. This provision provides a stronger statement of protection for the Jones Act than the Bateman Amendment.

S. 1216 provides a legislative procedure (Joint Resolution) for Congress to initiate US withdrawal from the Agreement if, ''responsive measures'' to U.S. Jones Act construction are taken. This process provides an equivalent alternative to the Bateman Amendment prohibition against countermeasures being filed against the US and which is consistent with the agreement.

Responsive countermeasures against the Jones Act are a highly theoretical event. Under the agreement, responsive countermeasures are authorized only when relevant Jones Act construction ''significantly upsets the balance of rights and obligations of the agreement.'' Even the most optimistic projections indicate that relevant U.S. Jones Act construction will represent only a fraction of 1% of the global shipbuilding market. Furthermore, the withdrawal provision in S. 1216 provides a disincentive for a nation to pursue a countermeasure against the U.S. since a successful action would result in U.S. withdrawal from the Agreement. U.S withdrawal from the Agreement would not only moot the countermeasure, it would terminate the Agreement altogether.

Finally in a worst case scenario, even if a Jones Act countermeasure were to be authorized and for some reason the US did not withdraw from the agreement, there would still be no real consequence to the U.S. Jones Act shipbuilding industry. Under the agreement, the only countermeasure allowable without the consent of the US would be to offset an equivalent portion of the complaining party's ''Jones Act'' market from US bidding. Because the global market is so vast (2000 commercial ship starts annually), providing so many alternative contracts to U.S. yards, the relatively tiny number of contracts that might be restricted by a countermeasure would not significantly affect U.S. yards. Additionally, the bill would prevent any countermeasures from being taken against other WTO sectors.

PROTECTION OF NATIONAL SECURITY INTERESTS

S. 1216 provides virtually identical language to that in the Bateman Amendment for the purposes of protecting our essential security interests.

S. 1216 preserves the prerogatives of the Secretary of Defense to exempt from the Agreement—''military vessels'', ''military reserve vessels'' and anything he deems to be in the ''essential security interests'' of the United States.

S. 1216 allows the Secretary of Defense to exempt all or part of a ship on which National Defense Features are installed, on a case by case basis.

The bill would not enable other OECD party nations to question U.S. authority to protect its essential security interests.

In a May 29, 1996, letter to the Chairman of the House Committee on National Security, the Department of Defense stated definitively; ''The Agreement will not adversely effect our national security.''

OTHER PROVISIONS

S. 1216 includes the same conditions for US withdrawal from the Agreement, and the same provisions for the snap-back of US laws changed by this legislation, as the Bateman Amendment.

Just like the Bateman Amendment, S. 1216 provides an effective mechanism for ''third party'' dumping petitions. The provision in S. 1216 conforms to the existing US anti-dumping code. S.1216 requires that anti-dumping actions be ''consistent with the terms of the Shipbuilding Agreement''.

S. 1216 includes several provisions that would substantially strengthen our monitoring and enforcement capabilities under the Agreement. USTR would be directed to establish a comprehensive interagency compliance monitoring program in conjunction with the U.S. shipbuilding industry and the maritime labor community, and to report to Congress annually.

S. 1216 further directs the US Government to vigorously pursue enforcement against noncompliance by other nations. These improvements are beyond the scope of the Bateman Amendment.

S. 1216 includes provisions that substantially enhance our ability to secure the accession to the Agreement of other shipbuilding countries including, specifically, Australia, Brazil, India, the Peoples Republic of China, Poland, Romania, Singapore the Russian Federation, and Ukraine. This improvement goes beyond the scope of the Bateman Amendment.●

CONFERENCE REPORT ACCOMPANYING H.R. 2107, THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 1998

● Mr. DOMENICI. Mr. President, I rise to address the conference report accompanying H.R. 2107, the fiscal year 1998 Interior and Related Agencies appropriations bill.

The conference report was adopted by the Senate on October 28. At the time the bill was called up, the Budget Committee had not received CBO's scoring of the final bill. This was due to the significant changes to the bill made by the conferees. I have received CBO's information and now address the budgetary scoring of the bill.

Mr. President, the conference agreement provides $13.8 billion in new budget authority and $9.1 billion in new outlays to fund the programs of the Department of Interior, the Forest Service of the Department of Agriculture, the Energy Conservation and Fossil Energy Research and Development Programs of the Department of Energy, the Indian Health Service, and arts-related agencies.

When outlays from prior-year budget authority and other completed actions are taken into account, the bill provides a total of $13.9 billion in budget authority and $13.8 billion in outlays for these programs for fiscal year 1998.

Mr. President, final action on the conference agreement necessitated a reallocation of funding authority for this bill. I regret that this reallocation was necessary because it was avoidable.

Section 205 of the fiscal year 1998 budget resolution provided for the allocation of $700 million in budget authority for Federal land acquisition and to finalize priority land exchanges upon the reporting of a bill that included such funding.

The distinguished chairman of the Senate Interior Subcommittee included these funds in title V of the bill as originally reported. As Chairman of the Budget Committee, I allocated these funds to the Appropriations Committee, which in turn provided them to the Interior Subcommittee.

If the conferees had adopted the Senate language, I would not have been in the position of withdrawing this funding allocation. However, the conferees modified the Senate language to provide only $699 million for land acquisition, and to expand the use of these funds for additional purposes: Critical maintenance activities are added as an allowable activity under this title V funding; $10 million is provided for a payment to Humboldt County, CA, as part of the headwaters land acquisition; and $12 million is provided for the repair and maintenance of the Beartooth Highway as part of the Crown Butte/New World Mine Land acquisition.

I was a conferee on the bill. The Senate Budget Committee provided clarifying language to the conferees on the Interior appropriations bill during their meeting on September 30. This language simply restated that moneys provided in title V, when combined with moneys provided by other titles of the bill for Federal land acquisition, shall provide at least $700 million for Federal land acquisition and to finalize priority land exchanges.

This language, which I urged be included throughout the 2-week period when final language was drafted, would have ensured that the section 205 allocation remained in place for this bill.

However, the Chairman decided not to incorporate the Senate language, and in fact, included language which attempts to trigger the additional $700 million by amending the budget resolution. The language in the conference report is directed scorekeeping, which causes a violation under section 306 of the Budget Act because it affects matters within the jurisdiction of the Budge Committee that were not reported by the Budget Committee.

Mr. President, I object to the inclusion of this directed scorekeeping language in this bill, or any other bill. If the Senate took language amending the budget resolution into account for determining budgetary levels, the

budget resolution levels and our efforts to enforce a balanced budget plan would become meaningless.

Instead of making the choices necessary to live within the budget resolution levels, committees could simply rely on a precedent to assert, or ''Deem,'' that they had complied with the budgetary limits, even though they hadn't.

Such action would undermine the budget discipline of the Senate.

Since the directed scorekeeping language will not become effective until the bill is signed into law, and the conferees did not clarify that $700 million is included in the bill for land acquisition and priority land exchanges, I had no choice but to withdraw the additional allocation of funding provided in section 205 of the budget resolution for land acquisition and exchanges.

Mr. President, I ask that a table displaying the Budget Committee's scoring of the conference agreement accompanying the Interior and Related Agencies appropriations bill for fiscal year 1998 be placed in the RECORD at this point.

The Senate Appropriations Committee has filed a revised 302(b) allocation to reduce the Interior Subcommittee by the amounts withdrawn.

The final bill is therefore $698 million in budget authority and $235 million in outlays above the subcommittee's revised 302(b) allocation as filed by the Appropriations Committee.

The table follows:

H.R. 2107, INTERIOR APPROPRIATIONS, 1998—SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal year 1998, in millions of dollars]

	Defense	Non-defense	Crime	Mandatory	Total
Conference report:					
Budget authority		13,798		55	13,853
Outlays		13,707		50	13,757
Senate 302(b) allocation:					
Budget authority		13,100		55	13,155
Outlays		13,472		50	13,522
President's request:					
Budget authority		13,747		55	13,802
Outlays		13,771		50	13,821
House-passed bill:					
Budget authority		12,980		55	13,035
Outlays		13,382		50	13,432
Senate-passed bill:					
Budget authority		13,699		55	13,754
Outlays		13,687		50	13,737
CONFERENCE REPORT COMPARED TO:					
Senate 302(b) allocation:					
Budget authority		698			698
Outlays		235			235
President's request:					
Budget authority		51			51
Outlays		−64			−64
House-passed bill:					
Budget authority		818			818
Outlays		325			325
Senate-passed bill:					
Budget authority		99			99
Outlays		20			20

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.●

DENNIS AND PHYLLIS WASHINGTON

● Mr. BAUCUS. Mr. President, I rise today to recognize the achievements and accomplishments of my fellow Montanans and good friends, Dennis and Phyllis Washington.

Dennis was born July 27, 1934, in Missoula, Montana. As a young boy, he moved to Bremerton, Washington, where he shined shoes and sold newspapers to supplement the family income. At the tender age of 8, he was diagnosed with polio and given little chance of survival. Miraculously, he survived and went back to Missoula to recover and live with his grandmother. From this point on in his life, Dennis has fought and struggled against all odds to survive and succeed. Years later, this struggle and dedication has become Washington Corp., which, according to a recent article in USA Today, ''consists of 15 businesses, employs 14,000, and generates $2.5 billion a year in revenue.''

However, Dennis has never forgotten where he came from. Dennis and Phyllis have strived to make Montana a better place. They have been instrumental in ensuring that the university of Montana maintains its ''tradition of excellence.'' In her position as chairperson of the University's capital campaign, Phyllis led the 5-year effort to a record level of $71 million, over $7 million of which came from her own pocket. That will mean a higher quality of education for our students helping more of our children to find good jobs in Montana.

From his humble beginnings in a house next to the railroad tracks to his present good fortune, the drive to help others has characterized Dennis Washington's life. He is a model for America, personifying the American dream that someone with big dreams can make those dreams a reality with a little intelligence and a lot of hard work.

I have great respect and admiration for Dennis. He is a Montana original whose story provides inspiration to me and many other Montanans. He has overcome tremendous adversity to become one of the most successful businessmen in America. However, the one thing surpassing his business acumen is his generosity to his fellow man. Dennis and Phyllis Washington are true philanthropists that are deserving of our recognition.●

TRIBUTE TO BRIGADIER GENERAL RICHARD AUGUSTUS EDWARDS, JR.

● Mr. WARNER. Mr. President, this week our nation bowed in humble appreciation and respect to all who have worn the uniforms of the U.S. military in recognition of Veterans' Day.

Today, family and friends gathered in Arlington Cemetery to give our final salute to one of those veterans—Brigadier General Richard Augustus Edwards, Jr.

Brigadier General Edwards was born in Smithfield, Virginia and graduated from the Virginia Military Institute in 1939. He joined the Army in 1940 and during World War II served in Burma, India and China with a mule-drawn artillery unit. He became an expert horseman, and competed for the Army in stadium jumping and polo.

After the war, he attended the Field Artillery School, the Command and General Staff College, and the National War College. He served in various assignments in Japan, Southeast Asia, Europe and the Middle East. His final combat command was the First Field Force Artillery in Vietnam in 1968 and 1969. He retired from military service in 1972 after serving in the Pentagon as head of officer assignments in the Army's Office of Personnel Operations.

His honors included the Distinguished Service Medal, three Legion of Merit awards and the Bronze Star. I was honored to call him my friend.

At the Virginia Military Institute, which he loved as dearly as his family, there is an archway through which he passed daily in his formative years as a cadet. It bears this quote attributed to General Stonewall Jackson, C.S.A.: ''You may be whatever you resolve to be.''

General Gus Edwards resolved to be his very best for his country, and his life showed that he achieved that goal. How proud the General would have been today of his son Richard Augustus Edwards, III as he was at his very best and delivered these stirring, heartfelt remarks at his father's funeral.

''I confess I was taken aback when Dad asked me to say a few words at his funeral. His funeral wasn't something we talked about very much. He wasn't particularly enthused by the topic. But I think his request had something to do with the fact that he was unable to attend his own father's funeral. At the time my grandfather died, we were steaming across the Atlantic to an assignment in Europe. Dad felt he never really got to say goodbye, and I believe it was something that haunted him; something that he didn't want me to experience. But for my part, I was—and am—daunted by his request, especially in this company. What can I possibly say that will be adequate to encompass or define our fifty-two year relationship? How can a son try to impart, in any consequential way, the meaning of a father's lifetime of lessons and love in just a few short minutes?

I've concluded that, for now, the best thing is to be brief. I will say that my father was a man of many parts; like all of us, simple and complex at once. I think he showed us his simple side most of the time. By simple, I mean unfettered, unaffected and straightforward.

He had a simple faith. He believed deeply and unequivocally in his God.

He maintained a strong and simple belief in the rightness of truth and honor.

He placed a premium on fidelity, and insisted that loyalty is a two-way street.

He lived always by the VMI Honor Code, never to lie, cheat, or steal nor countenance those who do.

He despised expedience and had no patience with the cynicism of modern deconstructionists.

There were not many gray areas in his life.

He loved his country. He loved his home state of Virginia and he took reasonable pride in his roots, which reached back to Jamestown.

And most of all, he loved his family. Family was everything to him. He adored and revered his parents. His brothers, their wives and children; my mother's sisters, their husbands and children, all were sources of endless interest, enjoyment and satisfaction to him. He shared forty-eight years with my mother, and they were totally devoted to one another.

And how he loved his girls: Augusta, who he was so proud to have bear his name; Christine, in whom he took such delight as his first grandchild; Annie, the only woman I know who he genuinely didn't mind losing arguments to, and Babs, who gave so much of herself to him, especially over the last few months. He was one lucky guy. And now he's come full circle. As a newly minted second lieutenant in 1940, he arrived here at Fort Meyer, his first duty station. He lived just a few steps away from this chapel at Quarters 201–A, and he buried old soldiers. Now the time has come to return the honor.

God bless you, Old Soldier.

TRIBUTE TO WASHINGTON STATE CITIZEN DOUG SCOTT, 1997 RECIPIENT OF THE SIERRA CLUB JOHN MUIR AWARD

● Mrs. MURRAY. Mr. President, I rise to pay tribute to a distinguished citizen of the great state of Washington, Mr. Doug Scott. Doug was recently recognized by the Sierra Club with the 105-year-old organization's highest award, the John Muir Award. The Sierra Club presents this award to honor individuals with a ''distinguished record of leadership—such as to continue John Muir's work of preservation and establishment of parks and wilderness.''

Doug Scott has certainly perpetuated the vision and leadership of John Muir throughout his years of commitment to the environment. Beginning his career of dedication to the environment in 1967 by joining the Sierra Club, Doug moved from his first involvement in the public policy process to be one of the original founders of Earth Day. From 1973 to 1977 Doug was the Sierra Club's Northwest field representative. In 1980, Doug became the National Conservation Director of the Sierra Club and in 1988, the organization's Associate Executive Director. In 1990, Doug left the Sierra Club for the beautiful San Juan Islands in my state of Washington to direct the San Juan Community Theater in Friday Harbor. Doug is now the Executive Director of a local, grass-roots environmental organization, Friends of the San Juans.

It is in this most recent capacity that I have come to most appreciate Doug's skills and abilities. Doug is an essential member of the Northwest Straits Citizen's Advisory Commission that I convened with Congressman METCALF. This local citizen's advisory commission is designed to assess the resource protections needs and values of the Northwest Straits marine environment and to explore the best ways to provide protections for this exquisite natural area. Doug's participation in this process has been invaluable. His deep commitment to protection of the marine environment combined with his thoughtful, innovative, and pragmatic approach has provided real progress for the Commission as it works through its mandate. Doug's ability to work with individuals with differing idealogies and perspectives in a cooperative and productive manner is a true asset to the Commission, and to the Northwest Straits as well.

In Doug's remarks at the Annual Awards Dinner, he said:

> Much as this award is personally gratifying. I prefer to think of it as recognition for an era in the growth and growing effectiveness of the Sierra Club and the citizen environmental movement. Each achievement during that era was the work of many hands. This award is for all of the Sierra Club volunteers and other activists that have proven that in this democracy, working together, an engaged citizenry can make a tremendous difference. I discovered the power of citizen activism over 25 years ago in the Sierra Club and now I see its impact every day in my work in the San Juan Islands.

The Sierra Club has chosen well in awarding Doug Scott the John Muir Award. I applaud their decision and I applaud Doug Scott. I thank him for his commitment to the environment of the San Juan Islands, the Northwest Straits, Washington state, and the United States. Great work, Doug. Congratulations.

Mr. President, I ask that the nominating statement for Doug Scott by Bruce Hamilton, Conservation Director of the Sierra Club be printed in the RECORD.

The statement follows:

DOUG SCOTT RECEIVES THE SIERRA CLUB'S JOHN MUIR AWARD

NOMINATING STATEMENT BY BRUCE HAMILTON, CONSERVATION DIRECTOR, SIERRA CLUB

Doug has been a mentor and an inspiration to an entire generation of environmental leaders, myself included. I feel so lucky to have learned my skills at the side of this master.

Doug had a way of turning dreams and visions into reality. Ed Wayburn had the vision for an Alaska Lands Act, but it was Doug Scott who pulled together and directed the 8 year campaign that passed the largest land protection bill in history. Rupert Cutler may have conceived of the RARE II wilderness review, but it was Doug Scott who marshalled the resources and provided the leadership to steer dozens of RARE II wilderness bills through the Congress. When states like Utah couldn't even boast a single wilderness area in the entire state, Doug packaged a group of areas together into the Endangered American Wilderness Act and mobilized a national campaign to pass it. Doug also developed the strategy that enabled us to pass the Superfund (remember the Superactivist we mailed out of SF every Friday?), the Clean Air Act Amendments (remember the Vento-Green medals?), and other anti-pollution campaigns. He was the inspiration and strategist for the California Desert Protection Act even though it did not pass until after he had left the Club.

Doug was also the most inspirational and motivational speaker within the Club, flying tens of thousands of miles every year to appear at Chapter annual meetings and retreats to preach about the power of the grassroots and the importance of combating apathy and cynicism. He was also one of the funniest leaders the Club has known, the source and subject of jokes and follies songs. He was the spark behind the national conservation work of the Club for 15 years.

The Club has been blessed with a series of powerful, inspirational, smart, and articulate leaders that exemplify the best traits of our founder, John Muir. From the late 1970's to the early 1990's Doug Scott lead the Club in the spirit of John Muir. He deserves the Club's highest conservation honor for his service, accomplishments, and inspiration.●

PERFORMANCE GOALS FOR THE PRESCRIPTION DRUG USER FEE ACT OF 1997

● Mr. JEFFORDS. Mr. President, on November 9 the Senate adopted Conference Report 105–399, that accompanied S. 830, the Food and Drug Administration Modernization Act of 1997. This legislation puts into place long-needed reforms in FDA's regulatory procedures and also reauthorizes the Prescription Drug User Fee Act of 1992 [PDUFA] for an additional 5 years.

The original PDUFA has brought faster reviews of drug applications. By all accounts the success is due to the underlying collaboration and partnership between FDA and the developers of innovative new medicines in using the fees paid by industry to bring the necessary review resources to bear on applications for new drugs. The 1992 act did not set the performance goals for activities funded by user fees into the law. Rather, these performance goals were set forth in a side-letter from the administration to the chairs and ranking members of the House Commerce and Senate Labor and Human Resources committees. These performance goals in the side-letter have stood the test of time—FDA has honored and met these goals as if they were in statute. Based on that experience, the Congress has agreed to use this approach again in establishing the performance goals for drug reviews funded by user fees over the next 5 years.

Today, I am submitting for the RECORD a letter addressed to me and signed by Secretary of Health and Human Services, Donna E. Shalala, dated November 12, 1997. This letter specifies the performance goals for the use of PDUFA fees for fiscal years 1998 through 2002. These goals, which were agreed to at the conclusion of negotiations between FDA officials and pharmaceutical and biotechnology industry representatives, are those referred to in section 101(4) of the Food and Drug Administration Modernization Act of 1997.

Mr. President, it is my hope that the next 5 years will see reductions in the drug development time, as well as further reductions in the time taken to actual review an applications.

The letter follows:

THE SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, November 12, 1997.

Hon. JAMES M. JEFFORDS,
Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you are aware, the Prescription Drug User Fee Act of 1992 (PDUFA) expired at the end of Fiscal Year 1997. Under PDUFA, the additional revenues generated from fees paid by the pharmaceutical and biological prescription drug industries have been used to expedite the prescription drug review and approval process, in accordance with performance goals that were developed by the Food and Drug Administration (FDA) in consultation with the industries. To date, FDA has met or exceeded the review performance goals agreed to in 1992, and is reviewing over 90 percent of priority drug applications in 6 months and standard drug applications in 12 months.

FDA has worked with representatives of the pharmaceutical and biological prescription drug industries, and the staff of your Committee, to develop a reauthorization proposal for PDUFA that would build upon and enhance the success of the original program. Title I, Subtitle A of the Food and Drug Administration Modernization Act of 1997, S. 830, as passed by the House and Senate on November 9, 1997, reflects the fee mechanisms developed in these discussions. The performance goals referenced in Section 101(4) are specified in the enclosure of this letter, entitled ''PDUFA Reauthorization Performance Goals and Procedures.'' I believe they represent a realistic projection of what FDA can accomplish with industry cooperation and the additional resources identified in the bill.

This letter and the enclosed goals document pertain only to Title I, Subtitle A (Fees Related to Drugs) of S. 830, the Food and Drug Administration Modernization Act of 1997.

OMB has advised that there is no objection to the presentation of these views from the standpoint of the Administration's program.

We appreciate the support of you and your staff, the assistance of other Members of the Committee, and that of the Appropriations Committees, in the reauthorization of this vital program.

Sincerely,

DONNA E. SHALALA.

Enclosure.

PDUFA REAUTHORIZATION PERFORMANCE GOALS AND PROCEDURES

The performance goals and procedures of the FDA Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER), as agreed to under the reauthorization of the prescription drug user fee program in the ''Food and Drug Administration Modernization Act of 1997,'' are summarized as follows:

I. FIVE-YEAR REVIEW PERFORMANCE GOALS

Fiscal year 1998

1. Review and act on 90 percent of standard original New Drug Application (NDAs) and Product License Applications (PLAs)/Biologic License Applications (BLAs) filed during fiscal year 1998 within 12 months of receipt.

2. Review and act on 90 percent of priority original NDA and PLA/BLA submissions filed during fiscal year 1998 within 6 months of receipt.

3. Review and act on 90 percent of standard efficacy supplements filed during fiscal year 1998 within 12 months of receipt.

4. Review and act on 90 percent of priority efficacy supplements filed during fiscal year 1998 within 6 months of receipt.

5. Review and act on 90 percent of manufacturing supplements filed during fiscal year 1998 within 6 months of receipt.

6. Review and act on 90 percent of all resubmitted original applications filed during the fiscal year 1998 within 6 months of receipt, and review and act on 30 percent of Class 1 resubmitted original applications within 2 months of receipt.

Fiscal year 1999

1. Review and act on 90 percent of standard original NDA and PLA/BLA submissions filed during fiscal year 1999 within 12 months of receipt and review and act on 30 percent within 10 months of recept.

2. Review and act on 90 percent of priority original NDA and PLA/BLA submissions filed during fiscal year 1999 within 6 months of receipt.

3. Review and act on 90 percent of standard efficacy supplements filed during fiscal year 1999 within 12 months of receipt and review and act on 30 percent within 10 months of receipt.

4. Review and act on 90 percent of priority efficacy supplements filed during fiscal year 1999 within 6 months of receipt.

5. Review and Act on 90 percent of manufacturing supplements filed during fiscal year 1999 within 6 months of receipt and review and act on 30 percent of manufacturing supplements requiring prior approval within 4 months of receipt.

6. Review and act on 90 percent of Class 1 resubmitted original applications filed during fiscal year 1999 within 4 months of receipt and review and act on 50 percent within 2 months of receipt.

7. Review and act on 90 percent of Class 2 resubmitted original applications filed during fiscal year 1999 within 6 months of receipt.

Fiscal year 2000

1. Review and Act on 90 percent of standard original NDA and PLA/BLA submissions filed during fiscal year 2000 within 12 months of receipt and review and act on 50 percent within 10 months of receipt.

2. Review and Act on 90 percent of priority original NDA and PLA/BLA submissions filed during fiscal year 2000 within 6 months of receipt.

3. Review and act on 90 percent of standard efficacy supplements filed during fiscal year 2000 within 12 months of receipt and review and act on 50 percent within 10 months of receipt.

4. Review and act on 90 percent of priority efficacy supplements filed during fiscal year 2000 within 6 months of receipt.

5. Review and Act on 90 percent of manufacturing supplements filed during fiscal year 2000 within 6 months of receipt and review and act on 50 percent of manufacturing supplements requiring prior approval within 4 months of receipt.

6. Review and act on 90 percent of Class 1 resubmitted original applications filed during fiscal year 2000 within 4 months of receipt and review and act on 50 percent within 2 months of receipt.

7. Review and act on 90 percent of Class 2 resubmitted original applications filed during fiscal year 2000 within 6 months of receipt.

Fiscal year 2001

1. Review and act on 90 percent of standard original NDA and PLA/BLA submissions filed during fiscal year 2001 within 12 months and review and act on 70 percent within 10 months of receipt.

2. Review and act on 90 percent of priority original NDA and PLA/BLA submissions filed during fiscal year 2001 within 6 months of receipt.

3. Review and act on 90 percent of standard efficacy supplements filed during fiscal year 2001 within 12 months and review and act on 70 percent within 10 months of receipt.

4. Review and act on 90 percent of priority efficacy supplements filed during fiscal year 2001 within 6 months of receipt.

5. Review and act on 90 percent of manufacturing supplements filed during fiscal year 2001 within 6 months of receipt and review and act on 70 percent of manufacturing supplements requiring prior approval within 4 months of receipt.

6. Review and act on 90 percent of Class 1 resubmitted original applications filed during fiscal year 2001 within 4 months of receipt and review and act on 70 percent within 2 months of receipt.

7. Review and act on 90 percent of Class 2 resubmitted original applications within 6 months of receipt.

Fiscal year 2002

1. Review and act on 90 percent of standard original NDA and PLA/BLA submissions filed during fiscal year 2002 within 10 months of receipt.

2. Review and act on 90 percent of priority original NDA and PLA/BLA submissions filed during fiscal year 2002 within 6 months of receipt.

3. Review and act on 90 percent of standard efficacy supplements filed during fiscal year 2002 within 10 months of receipt.

4. Review and act on 90 percent of priority efficacy supplements filed during fiscal year 2002 within 6 months of receipt.

5. Review and act on 90 percent of manufacturing supplements filed during fiscal year 2002 within 6 months of receipt and review and act on 90 percent of manufacturing supplements requiring prior approval within 4 months of receipt.

6. Review and act on 90 percent of Class 1 resubmitted original applications field during fiscal year 2002 within 2 months of receipt.

7. Review and act on 90 percent of Class 2 resubmitted original applications within 6 months of receipt.

These review goals are summarized in the following tables:

ORIGINAL NDAs/BLAs/PLAs AND EFFICACY SUPPLEMENTS

Submission cohort	Standard	Priority
Fiscal year:		
1998	90 pct. in 12 mos	90 pct. in 6 mos.
1999	30 pct. in 10 mos 90 pct. in 12 mos	90 pct. in 6 mos.
2000	50 pct. in 10 mos 90 pct. in 12 mos	90 pct. in 6 mos.
2001	70 pct. in 10 mos 90 pct. in 12 mos	90 pct. in 6 mos.
2002	90 pct. in 10 mos	90 pct. in 6 mos.

MANUFACTURING SUPPLEMENTS

Submission cohort	Manufacturing supplements that—	
	Do not require prior approval[1]	Do require prior approval
Fiscal year:		
1998	90 pct. in 6 mos	90 pct. in 6 mos.
1999	90 pct. in 6 mos	30 pct. in 4 mos. 90 pct. in 6 mos.
2000	90 pct. in 6 mos	50 pct. in 4 mos. 90 pct. in 6 mos.
2001	90 pct. in 6 mos	70 pct. in 4 mos. 90 pct. in 6 mos.

[1] Changes being effected or 30-day supplements.

RESUBMISSION OF ORIGINAL NDAs/BLAs/PLAs

Submission cohort	Class 1	Class 2
Fiscal years:		
1998	90 pct. in 6 mos 30 pct. in 2 mos	90 pct. in 6 mos.
1999	90 pct. in 4 mos 50 pct. in 2 mos	90 pct. in 6 mos.
2000	90 pct. in 4 mos 70 pct. in 2 mos	90 pct. in 6 mos.
2001	90 pct. in 2 mos	90 pct. in 6 mos.

RESUBMISSION OF ORIGINAL NDAs/BLAs/PLAs—Continued

Submission cohort	Class 1	Class 2
2002	90 pct. in 2 mos	90 pct. in 6 mos.

II. NEW MOLECULAR ENTITY (NME) PERFORMANCE GOALS

The performance goals for standard and priority original NMEs in each submission cohort will be the same as for all of he original NDAs (including NMEs) in each submission cohort but shall be reported separately.

For biological products, for purposes of this performance goal, all original BLAs/PLAs will be considered to be NMEs.

III. MEETING MANAGEMENT GOALS

A. Responses to Meeting Requests

1. Procedure: Within 14 calendar days of the Agency's receipt of a request from industry for a formal meeting (i.e., a scheduled face-to-face, teleconference, or video conference) CBER and CDER should notify the requester in writing (letter or fax) of the date, time, and place for the meeting, as well as expected Center participants.

2. Performance Goal: FDA will provide this notification within 14 days for 70% of requests (based on request receipt cohort year) starting in FY 1999; 80% in FY 2000; and 90% in subsequent fiscal years.

B. Scheduling meetings

1. Procedure: The meeting date should reflect the next available date on which all applicable Center personnel are available to attend, consistent with the component's other business; however, the meeting should be scheduled consistent with the type of meeting requested. If the requested date for any of these types of meetings is greater than 30, 60, or 75 calendar days (as appropriate) from the date the request is received by the Agency, the meeting date should be within 14 calendar days of the date requested.

Type A Meetings should occur within 30 calendar days of the Agency receipt of the meeting request.

Type B Meetings should occur within 60 calendar days of the Agency receipt of the meeting request.

Type C Meetings should occur within 75 calendar days of the Agency receipt of the meeting request.

2. Performance goal: 70% of meetings are held within the time frame (based on cohort year of request) starting in FY 1999; 80% in FY 2000; and 90% in subsequent fiscal years.

C. Meeting minutes

1. Procedure: The Agency will prepare minutes which will be available to the sponsor 30 calendar days after the meeting. The minutes will clearly outline the important agreements, disagreements, issues for further discussion, and action items from the meeting in bulleted form and need not be in great detail.

2. Performance goal: 70% of minutes are issued within 30 calendar days of date of meeting (based on cohort year of meeting) starting in FY 1999; 89% in FY 2000; and 90% in subsequent fiscal years.

D. Conditions

For a meeting to qualify for these performance goals:

1. A written request (letter or fax) should be submitted to the review division; and

2. The letter should provide: a. A brief statement of the purpose of the meeting; b. a listing of the specific objectives/outcomes the requester expects from the meeting; c. a proposed agenda, including estimated times needed for each agenda item; d. a listing of planned external attendees; e. a listing of requested participants/disciplines representative(s) from the Center; f. the approximate time that supporting documentation (i.e., the ''backgrounder'') for the meeting will be sent to the Center (i.e., ''x'' weeks prior to the meeting, but should be received by the Center at least 2 weeks in advance of the scheduled meeting for Type A or C meetings and at least 1 month in advance of the scheduled meeting for Type B meetings); and

3. The Agency concurs that the meeting will serve a useful purpose (i.e., it is not premature or clearly unnecessary). However, requests for a ''Type B'' meeting will be honored except in the most unusual circumstances.

IV. CLINICAL HOLDS

A. Procedure

The Center should respond to a sponsor's complete response to a clinical hold within 30 days of the Agency's receipt of the submission of such sponsor response.

B. Performance goal

75% of such responses are provided within 30 calendar days of the Agency's receipt of the sponsor's response starting in FY 98 (cohort of date of receipt) and 90% in subsequent fiscal years.

V. MAJOR DISPUTE RESOLUTION

A. Procedure

For procedural or scientific matters involving the review of human drug applications and supplements (as defined in PDUFA) that cannot be resolved at the divisional level (including a request for reconsideration by the Division after reviewing any materials that are planned to be forwarded with an appeal to the next level), the response to appeals of decisions will occur within 30 calendar days of the Center's receipt of the written appeal.

B. Performance goal

70% of such answers are provided within 30 calendar days of the Center's receipt of the written appeal starting in FY 1999; 80% in FY 2000; and 90% in subsequent fiscal years.

C. Conditions

1. Sponsors should first try to resolve the procedural or scientific issue at the Division level. If it cannot be resolved at that level, it should be appealed to the Office Director level (with a copy to the Division Director) and then, if necessary, to the Deputy Center Director or Center Director (with a copy to the Office Director).

2. Responses should be either verbal (followed by a written confirmation within 14 calendar days of the verbal notification) or written and should ordinarily be to either deny or grant the appeal.

3. If the decision is to deny the appeal, the response should include reasons for the denial and any actions the sponsor might take in order to persuade the Agency to reverse its decision.

4. In some cases, further data or further input from others might be needed to reach a decision on the appeal. In these cases, the ''response'' should be the plan for obtaining that information (e.g., requesting further information from the sponsor, scheduling a meeting with the sponsor, scheduling the issue for discussion at the next scheduled available advisory committee).

5. In these cases, once the required information is received by the Agency (including any advice from an advisory committee), the person to whom the appeal was made, again has 30 calendar days from the receipt of the required information in which to either deny or grant the appeal.

6. Again, if the decision is to deny the appeal, the response should include the reasons for the denial and any actions the sponsor might take in order to persuade the Agency to reverse its decision.

7. N.B. If the Agency decides to present the issue to any advisory committee and there are not 30 days before the next scheduled advisory committee, the issue will be presented at the following scheduled committee meeting in order to allow conformance with advisory committee administrative procedures.

VI. SPECIAL PROTOCOL QUESTION ASSESSMENT AND AGREEMENT

A. Procedure

Upon specific request by a sponsor (including specific questions that the sponsor desires to be answered), the agency will evaluate certain protocols and issues to assess whether the design is adequate to meet scientific and regulatory requirements identified by the sponsor.

1. The sponsor should submit a limited number of specific questions about the protocol design and scientific and regulatory requirements for which the sponsor seeks agreement (e.g., is the dose range in the carcinogenicity study adequate, considering the intended clinical dosage; are the clinical endpoints adequate to support a specific efficacy claim).

2. Within 45 days of Agency receipt of the protocol and specific questions, the Agency will provide a written response to the sponsor that includes a succinct assessment of the protocol and answers to the questions posed by the sponsor. If the agency does not agree that the protocol design, execution plans, data analyses are adequate to achieve the goals of the sponsor, the reasons for the disagreement will be explained in the response.

3. Protocols that qualify for this program include: carcinogenicity protocols, stability protocols, and Phase 3 protocols for clinical trials that will form the primary basis of an efficacy claim. (For such Phase 3 protocols to qualify for this comprehensive protocol assessment, the sponsor must have had an end of Phase 2/pre-Phase 3 meeting with the review division so that the division is aware of the developmental context in which the protocol is being reviewed and the questions being answered.)

4. N.B. For products that will be using Subpart E or Subpart H development schemes, the Phase 3 protocols mentioned in this paragraph should be construed to mean those protocols for trails that will form the primary basis of an efficacy claim no matter what phase of drug development in which they happen to be conducted.

5. If a protocol is reviewed under the process outline above and agreement with the Agency is reached on design, execution, and analyses and if the results of the trial conducted under the protocol substantiate the hypothesis of the protocol, the Agency agrees that the data from the protocol can be used as part of the primary basis for approval of the product. The fundamental agreement here is that having agreed to the design, execution, and analyses proposed in protocols reviewed under this process the Agency will not later alter its perspective on the issues of design, execution, or analyses unless public health concerns unrecognized at the time of protocol assessment under this process are evident.

B. Performance goal

60% of special protocols assessments and agreement requests completed and returned to sponsor within time frames (based on cohort year of request) starting in FY 1999; 70% in FY 2000; 80% in FY 2001; and 90% in FY 2002.

VII. ELECTRONIC APPLICATIONS AND SUBMISSIONS

The Agency shall develop and update its information management infrastructure to allow, by fiscal year 2002, the paperless receipt and processing of INDs and human drug applications, as defined in PDUFA, and related submissions.

VIII. ADDITIONAL PROCEDURES

A. Simplification of action letters

To simplify regulatory procedures, the CBER and CDER intend to amend their regulations and processes to provide for the issuance of either an ''approval'' (AP) or a ''complete response'' (CR) action letter at the completion of a review cycle for a marketing application.

B. Timing of sponsor notification of deficiencies in applications

To help expedite the development of drug and biologic products, CBER and CDER intend to submit deficiencies to sponsors in form of an ''information request'' (IR) letter when each discipline has finished its initial review of its section of the pending application.

IX. DEFINITIONS AND EXPLANATION OF TERMS

A. The term ''review and act on'' is understood to mean the issuance of a complete action letter after the complete review of a filed complete application. The action letter, if it is not an approval, will set forth in detail the specific deficiencies and, where appropriate, the actions necessary to place the application in condition for approval.

B. A major amendment to an original application submitted within three months of the goal date extends the goal date by three months.

C. A resubmitted original application is a complete response to an action letter addressing all identified deficiencies.

D. Class 1 resubmitted applications are applications resubmitted after a complete response letter (or a not approvable or approvable letter) that include the following items only (or combinations of these items):

1. Final printed labeling;
2. Draft labeling;
3. Safety updates submitted in the same format, including tabulations, as the original safety submission with new data and changes highlighted (except when large amounts of new information including important new adverse experiences not previously reported with the product are presented in the resubmission);
4. Stability updates to support provisional or final dating periods;
5. Commitments to perform Phase 4 studies, including proposals for such studies;
6. Assay validation data;
7. Final release testing on the last 1–2 lots to support approval;
8. A minor reanalysis of data previously submitted to the application (determined by the agency as fitting the Class 1 category);
9. Other minor clarifying information (determined by the Agency as fitting the Class 1 category); and
10. Other specific items may be added later as the Agency gains experience with the scheme and will be communicated via guidance documents to industry.

E. Class 2 resubmissions are resubmissions that include any other items, including any item that would require presentation to an advisory committee.

F. A Type A Meeting is a meeting which is necessary for an otherwise stalled drug development program to proceed (a ''critical path'' meeting).

G. A Type B Meeting is a (1) pre-IND, (2) end of Phase 1 (for Subpart E or Subpart H or similar products) or end of Phase 2/pre-Phase 3, or (3) a pre-NDA/PLA/BLA meeting. Each requestor should usually only request 1 each of these Type B meetings for each potential application (NDA/PLA/BLA) (or combination of closely related products, i.e., same active ingredient but different dosage forms being developed concurrently).

H. A Type C Meeting is any other type of meeting.

I. The performance goals and procedures also apply to original applications and supplements for human drugs initially marketed on an over-the-counter (OTC) basis through an NDA or switched from prescription to OTC status through an NDA or supplement.●

TRIBUTE TO WILLIAM D. MOORE

● Mr. DODD. Mr. President, I want to take a moment to recognize the work of one of my constituents—William D. Moore of Old Saybrook, Connecticut. Bill left his post as Executive Director of the Southeastern Connecticut Chamber of Commerce this month and his work in that post deserves special recognition.

Bill has been at the helm of so many economic and development initiatives in the Southern portion of our state that it is hard to list all of them in this brief statement. But without a doubt, it is Bill's leadership through some of the most difficult economic times in our state that really stand out in my mind.

When the very first round of base closures were being proposed in the Pentagon in 1989, it was Bill Moore who literally marshaled the forces in Southern Connecticut. He recruited some of the most dynamic and brilliant minds in our state to come together and review every single document, every single calculation, and even the very computer model used to analyze the various Groton-New London regional facilities under the Defense Department's review. Bill created one of the most cohesive and effective team strategies ever presented to address the economic impact issues which clearly were not being assessed by the Pentagon.

Although not all of our efforts were successful, it was Bill's foresight and commanding presence that eventually led our team to victory in the fight to remove the New London Submarine Base from the Base Closure list in 1993. As a measure of credit, the Base Closure Commission belatedly admitted that the Navy's assumptions used to evaluate New London were flawed. Bill Moore was the man who first presented that information to the commission.

However, Bill's efforts have gone far beyond that monumental task. He has been the usher at the door of an entire new economic era for Southeastern Connecticut. Just as the defense downsizing efforts were taking their ravenous toll on our state and New London County in particular, Bill encouraged and fostered new development for our state and helped bring about a more level-headed transition for our heavily defense weighted economy. For example, he assisted in the appropriation of funds to rebuild the Connecticut State Pier and helped with the private-public partnerships that have rebuilt downtown New London. That was no small task.

During Bill's tenure, the membership of the Southeastern Chamber has more than doubled. Clearly, the contributions of those members have made New London County what it is today.

Finally, I would be remiss if I did not mention Bill's contributions during the creation and expansion of two of the most successful Indian gaming facilities in the hemisphere. Bill's unique skills and perseverence made this transition for our region a positive and inclusive process.

In closing, let me just add my personal thanks and congratulations to Bill and his family. I wish Bill and Maureen every success in their new endeavors.●

NATIONAL ACADEMY OF SCIENCES STUDY ON IMMIGRATION

● Mr. ABRAHAM. Mr. President, I rise today to discuss the National Academy of Sciences study on immigration that has received so much attention in the past year. This is a study the Senate Immigration Subcommittee held a hearing on this September featuring two of the principal authors of the report.

In releasing the study, the Academy stated quite clearly that ''Immigration benefits the U.S. economy overall and has little negative effect on the income and job opportunities of most native-born Americans.'' Moreover, the recent hearing showed that the study's findings were actually more positive than the initial press reports indicated.

Ronald Lee, a professor of demography and economics at the University of California at Berkeley who performed the key fiscal analysis for the Academy study, testified at the hearing that ''[The NAS] Panel asked how the arrival of an additional immigrant today would affect U.S. taxpayers. According to the report, over the long run an additional immigrant and all descendants would actually save the taxpayers $80,000.'' Lee notes that immigrant taxes ''help pay for government activities such as defense for which they impose no additional costs.'' Immigrants also ''contribute to servicing the national debt'' and are big net contributors to Social Security.

Critics of immigration cite only the study's figures on the annual costs immigrant households are said to impose on natives. However, Lee testified that ''These numbers do not best represent the Panel's findings, and should not be used for assessing the consequences of immigration policies.'' This is a pretty clear statement that citing the household cost figures to urge cuts in legal immigration is an improper use of the study's data.

The problem, Lee found, was that calculating annual numbers requires using an older model that counts the native-born children of immigrants as ''costs'' created by immigrant households when those children are in school, but fails to include the taxes paid by those children of immigrants once they complete their schooling, enter the work force, and become big tax contributors. The key fiscal analysis in the report, performed in Chapter

7, corrects the flaws in the annual figures by using a dynamic model that factors in the descendants of immigrants.

In response to a question from the subcommittee, Ronald Lee noted that, with the necessary assumptions, a dynamic analysis would likely show at least 49 of the 50 States come out ahead fiscally from legal immigration, with California a close call.

Jim Smith, chairman of the NAS study, testified that ''Due to the immigrants who arrived since 1980, total Gross National Product is about $200 billion higher each year.'' In other words, recent immigrants will add approximately $2 trillion to the nation's GNP over the course of the 1990s.

I ask to have printed in the RECORD a recent Wall Street Journal article that goes into greater detail on the Academy study.

The article follows:

[The Wall Street Journal, Tuesday, Nov. 11, 1997]

IMMIGRANTS BRING PROSPERITY

(By Spencer Abraham)

Critics of America's immigration policy are attempting to reignite the heated debate that almost produced laws severely restricting legal immigration. Ironically, they are using as their vehicle a National Academy of Sciences study, released earlier this year, that was highly favorable toward immigration. Anti-immigrant writers and advocacy groups have engaged in a concerted effort to put a negative spin on the report. ''The study highlights significant problems with regard to immigration,'' crows the Center for Immigration Studies.

That just won't wash. A recent hearing before the Senate Subcommittee on Immigration found that the study's findings were even more positive than initial press reports indicated.

The most important finding of the NAS report is that an additional immigrant to the U.S. and all his descendants would actually save taxpayers $80,000 over the long run. Ronald Lee of the University of California, who was the report's key fiscal analyst, notes that immigrant taxes ''help pay for government activities such as defense for which they impose no additional costs.'' Immigrants also ''contribute to servicing the national debt'' and are big net contributors to Social Security.

Critics of immigration cite only the study's figures on the annual costs immigrant households are said to impose on natives. However, Mr. Lee testified that ''these numbers do not best represent the panel's findings, and should not be used for assessing the consequences of immigration policies.'' The problem, Mr. Lee found, was that calculating annual numbers requires using an older model that counts the native-born children of immigrants as ''costs'' created by immigrant households when those children are in school, but fails to include the taxes those children pay once they enter the work force. The $80,000 figure was arrived at using a dynamic model that factors in the descendants of immigrants. As for the fiscal impact on states of legal immigration. Mr. Lee said, with the necessary assumptions, a dynamic analysis would likely show 49 of them coming out ahead, with California a close call.

The benefits of legal immigration don't end there. Mr. Lee said that the net present value to the nation of the immigrants who will enter the U.S. during the 1990s is over $500 billion. Jim Smith, chairman of the NAS study and a RAND economist, testified that ''due to the immigrants who arrived since 1980, total gross national product is about $200 billion higher each year.'' In other words, recent immigrants will add approximately $2 trillion to the nation's GNP over the course of the 1990s.

Opponents of immigration also would like Americans to believe that nearly everyone's wages are significantly lower because of competition from immigrants. That is far from the truth. The NAS study estimates that only two groups have seen their wages affected by immigration: those who immigrated a few years earlier, and native-born Americans who did not finish high school. Wages for these groups are about 5% lower than they would have been without immigration—a figure that drops to 3% if only legal immigrants are counted, according to Mr. Smith. Cutting legal immigration would have a ''quite limited'' effect even on this group's wages, he said. ''Fortunately,'' he noted, ''90% of Americans are not high school dropouts, an the percent of high school dropouts has been declining rapidly.'' Indeed, Mr. Smith added that competition from immigrants sends wage signals that encourage native-born Americans to stay in school.

''The competition from immigration for even some native-born workers can be easily exaggerated,'' testified Mr. Smith. ''To the extent immigrants do work different than that of native-born workers, immigration benefits all native-Americans who gain in their other role as consumers of these now less-expensive goods and services.''

In short, the NAS study confirms what most Americans have known all along: Our tradition of welcoming immigrants pays off—for the immigrants and for the rest of us.●

EXTENDING CERTAIN PROGRAMS UNDER THE ENERGY POLICY AND CONSERVATION ACT

● Mr. BINGAMAN. Mr. President, the situation in which we find ourselves on this bill is a disgrace. The daily newspapers have been filled recently with stories of our developing political confrontation with Saddam Hussein. Just today, Saddam Hussein has ordered all American arms inspectors to leave Iraq immediately, escalating Iraq's crisis with the United Nations and heightening the possibility of a military confrontation. We may well see military action in the Persian Gulf before Congress convenes next year. We all know what that could do to oil markets. Prices might well spike up, right in the middle of the winter heating season. The most effective antidote to such damaging price fluctuations is close communication among the major oil consumption nations, and joint action to calm oil markets through the International Energy Agency [IEA]. Yet the bill before us, once again, fails to make the legal changes that are needed for the United States to continue to participate meaningfully in the IEA.

The United States took the lead in forming the IEA after the Arab oil embargo of 1973, so that we would never again have to experience the market chaos that reigned at that time. At that time, it seemed that the best way to avoid a repeat of gas lines around the world was through mandatory allocations of world oil supplies. This was basically a command-and-control approach to the problem. This mandatory allocation mechanism was enshrined in our basic law on oil emergencies, the Energy Policy and Conservation Act of 1975 [EPCA], which also authorized the Strategic Petroleum Reserve, and which this bill would extend. But the world has changed since the 1970's. Oil markets have changed dramatically since then. And the mandatory allocation scheme contained in the original EPCA is a dinosaur.

The United States has taken the lead in designing a flexible international response mechanism to oil supply disruptions that respects market forces. Our domestic oil industry played a key role in the planning process and has endorsed it. We convinced all of the other countries in the IEA to adopt it. But without statutory changes to EPCA, the United States is placed in the absurd position of not being able to participate in the international oil emergency response system that it designed. And all indications from the Persian Gulf are that we could have another emergency sometime soon.

Why are we in such a predicament? It is not the fault of the administration. They have been pressing for the adoption of the needed legal changes for 3 years now. It is not the fault of this Body. We have passed the requisite legal changes in both the last Congress and in this Congress, and have forwarded them to the other Body. There is no good answer to the question of why the other Body continues to refuse to act on such clearly needed changes. These necessary changes have apparently been made a hostage to other, non-related issues. So we must pass the bill before us today, which is inadequate to our national security needs, or the President will also be without clear legal authorities to operate the Strategic Petroleum Reserve in case of an oil supply emergency.

I will vote for this bill, Mr. President, with extreme reluctance. But I hope that no one is under the illusion that it advances our energy security. Quite the opposite. The bill sent to us by the other Body will likely reduce our energy security, by inflicting long-term damage on the International Energy Agency. This is because failure of the bill to allow IEA to work with U.S. oil companies threatens the future of the Agency. When there are severe supply shortages or market instability, the IEA requires real-time information about the movement and location of oil stocks that only these oil companies can provide. In such a case, this information is shared at the express request of the U.S. Government. But the sharing of this information is normally forbidden under our antitrust laws, so an antitrust exemption of cover information-sharing undertaken at the U.S. Government's request is both needed and justified.

What is U.S. industry to make of our refusal, for a third time now, to make

the appropriate changes to EPCA? I believe that industry will see the passage of this legislation as a signal that the changes to U.S. law needed for their continued participation in the IEA will not be forthcoming in this Congress, if ever. None of us should be surprised, then, when these companies end their cooperation with the IEA and start to reassign the personnel who previously worked on the issues of emergency preparedness and coordination.

The refusal of the other Body to act on the needed antitrust exemption places the two most important parts of the program of the IEA for 1998 in serious jeopardy. I would like to describe these planned activities in a little detail, which will illustrate how our energy security will be diminished by this bill, even if a crisis in the Persian Gulf does not occur while we are out of session. First, IEA was planning to convene a global conference next year to discuss the coordinated management of emergency oil stocks. For the first time, China, India, and other Asian countries, which will be crucial players in any international oil emergency, would have been represented. This conference will be an important opportunity to convince them to develop their own emergency stockpiles, and will provide a venue for them to learn the practicalities involved in doing so. The U.S. Government has contributed $50,000 towards holding this conference. Without the necessary antitrust exemption, though, the conference will likely be canceled, since the key players with expertise in creating and managing emergency stocks, the oil companies that operate in the United States, are precluded from participating under current law. I don't see how that serves our national interests. Second, the IEA was also planning to hold, in 1998, the first drill in 5 years to exercise its emergency mechanisms. This is important to the smooth functioning of IEA's mechanisms in an actual emergency. In the last 5 years, most of the personnel with knowledge of what actually transpired during the Persian Gulf war on world oil markets have left the scene. It is past time that we have held an exercise to test our present capabilities to handle an emergency. Next year's exercise would also have been the first full test of the revised procedures put in place since the Persian Gulf war. Without the antitrust exemption, this exercise either cannot be held, or it must be limited to exercising only the obsolete IEA procedures for mandatory supply allocation. Industry interest in doing the latter is minimal, so the exercise will in all likelihood be canceled. Such an avoidable development is also not in our national interest.

If there were legitimate issues being raised by the other Body with respect to the broader legislation that is needed, that would be one thing. Such issues could be worked out in conference. But the only action from the other Body to our requests for the legal changes needed to maintain our energy security, for the past 3 years now, has been to wait until the end of session, to pass a short bill extending the expiration dates in current law, and to leave town. I believe that our country has been poorly served by this inattention to our national security interests.●

EXPLANATORY STATEMENT OF THE SENATE COMMITTEE ON APPROPRIATIONS

● Mr. FAIRCLOTH. Mr. President, on Sunday, November 10, 1997, the Senate passed H.R. 2607, making Appropriations for the District of Columbia for fiscal year 1998. On November 10, 1997, under a unanimous-consent agreement, Senators STEVENS and BYRD were directed to file an explanatory statement on the District of Columbia Appropriations Act, 1998.

Earlier today, the Senate passed the appropriations bill for the District of Columbia. Senators STEVENS, BYRD, BOXER and I submit the attached bipartisan statement to accompany H.R. 2607, making appropriations for the District of Columbia for fiscal year 1998.

The statement follows:

EXPLANATORY STATEMENT OF THE SENATE COMMITTEE ON APPROPRIATIONS

The Senate Committee on Appropriations submits the following statement in explanation of the effect of the act of the House and Senate on the accompanying bill (H.R. 2607), which passed the House and the Senate.

The House- and Senate-passed bill on the District of Columbia Appropriations Act, 1998, incorporates most of the provisions of the Senate version of the bill and a number of provisions of the House version of the bill. The language and allocations set forth in Senate Report 105–75 should be complied with unless specifically addressed to the contrary in the accompanying bill and statement.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The House amended the Senate bill, which was passed by the House and Senate.

TITLE I

Management Reform—The bill provides $8,000,000 in federal funds for a program of management reform for the District of Columbia government. The Revitalization Act and the Management Reform Act, which were enacted with the Balanced Budget Act of 1997, have created an opportunity for the District of Columbia to correct years of mismanagement throughout the District government as documented by the District of Columbia Financial Responsibility and Management Assistance Authority (Authority) and numerous Congressional hearings. The District of Columbia Appropriations Act, 1998, provides $8,000,000 to fund the hiring of management consultants to conduct comprehensive reviews of nine major agencies and four major citywide functions of the District government. In addition, the appropriation funds the position of a chief management officer [CMO], who will oversee the responsibilities assigned the Authority under the Management Reform Act. The Congress will closely monitor each step of implementation of the Management Reform Act to ensure that the District continues the task of returning the District to a position of long-term financial responsibility.

Federal Contribution—The bill provides $190,000,000 for a Federal contribution to the District of Columbia towards the cost of operating the District government. The appropriation represents the amount authorized by section 11402 of the National Capital Revitalization and Self-Government Improvement Act of 1997. The District is directed to use $30,000,000 of the Federal contribution to repay the accumulated general fund deficit.

Federal Payment to the District of Columbia Criminal Justice System—The bill provides $108,000,000 for operation of the District of Columbia Courts and the pension costs of certain court employees. The bill further provides that the Office of Management and Budget shall apportion quarterly payments from this appropriation to the District government for the courts' operations. In addition, payroll and financial services are to be provided on a contractual basis with the General Services Administration, which is directed to provide monthly financial reports to the President and the designated Congressional committees. The bill provides that, of this appropriation, up to $750,000 is available for the establishment and operations of the Truth in Sentencing Commission authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997.

The bill further directs $43,000,000 for payment to the Offender Supervision Trustee for obligation by the Trustee as follows: $26,855,000 for Parole, Adult Probation and Offender Supervision; $9,000,000 to the Public Defender Service; $6,345,000 to the Pretrial Services Agency; and $800,000 to be transferred to the United States Parole Commission.

District of Columbia Public Schools—The Committee notes with concern the delay in opening the District of Columbia public schools [DCPS] for the 1997–98 academic year. In order to ensure that the District's public schools do not experience a similar delay for the 1998–99 academic year, the Committee directs the Chief Executive Officer of the DCPS to report to the Committees on Appropriations of the Senate and the House, the Governmental Affairs Committee of the Senate, and the Committee on Government Reform and Oversight of the House by April 1, 1998, on all measures necessary and all steps to be taken to ensure that the District's public schools open pursuant to the DCPS schedule. The Committee directs that the report to Congress include a description of all building repairs needed to provide safe, habitable schools, and a timetable to complete repairs prior to the beginning of the 1998–99 academic year.

District of Columbia Charter Schools—The Committee is concerned about the slow progress of public charter schools in the District of Columbia. Since enactment of the District of Columbia School Reform Act of 1995, which established public charter school authority in the District, only three public charter schools have been established to date. Public charter schools are one of two opportunities to inject competition among the educational choices available to parents in the District and to make significant improvements in the quality of education provided to children in the District of Columbia. The Committee is hopeful that the current charter school application process will produce more public charter schools in the District. It is also the hope of the Committee that the District of Columbia public charter schools and the public charter school community will work together on solutions for the capital needs of public charter schools.

The bill provides $3,376,000 from local funds, not including funds already made available for District of Columbia public schools, for public charter schools. Of this

amount, $400,000 shall be available for the District of Columbia Public Charter School Board. The bill also establishes a revolving loan fund for current or new public charter schools. If any funds are not allocated by May 1, 1998, these funds shall be deposited in the revolving loan fund. In addition, the bill requires the District of Columbia public schools to report to Congress within 120 days of enactment, on the capital needs of each public charter schools.

The bill further provides that each public charter school authority may grant up to 10 charters per school year and may approve these charters before January 1 of the calendar year. The bill increases the number of members on a charter school's board of trustees from 7 to 15. The bill also allows an increase in annual payments to charter schools that provide room and board in a residential setting. Finally, the Committee agrees to require increasing the annual payment to charter schools to take into account leases or purchases of, or improvements to, the building facility of the charter school. The charter school must make its request for an increase in its annual payment by April 1 of the fiscal year.

Deficit Reduction and Revitalization—The bill approves the plan of the Mayor, District Council and Authority to allocate $201,090,000 to the reduction of the District's accumulated general fund deficit, capital expenditures, and management and productivity improvements. The bill directs that not less than $160,000,000 be used for reduction of the accumulated general fund deficit. The Committee agrees to the deficit reduction and revitalization plan proposed by the District government and Authority in lieu of the House proposal for a District of Columbia Taxpayer's Relief Fund and Deficit Reduction Fund.

Medical Malpractice Reform—The Committee notes with concern that the District of Columbia is one of the few jurisdictions in the country that has failed to enact medical malpractice reform. The continued increase in medical litigation in the district drives up the cost and reduces the availability of health care for all District residents and others who receive health care resources. The Committee directs the authority, in consultation with the District government, to evaluate the issue of medical malpractice reform and report to Congress by March 1, 1998, recommendations on medical malpractice reform for the District.

University of the District of Columbia School of Law—The Committee is concerned that students enrolled at the University of the District of Columbia School of Law (School) are not receiving the quality education that is required to prepare them for a successful career in the legal profession. The Committee directs the Authority to report to the Committees on Appropriations of the Senate and House of Representatives, the Senate Committee on Governmental Affairs, and the House Committee on Government Reform and Oversight by March 1, 1998, on the accreditation status of the School. The Authority shall include in its report recommendations on whether or not the School should continue to: (1) operate and (2) receive funds from the District of Columbia government.

Public Space Misconduct—The Committee is concerned about the ongoing problem of loitering, panhandling, alcohol consumption, verbal harassment, littering, and other improper and illegal activities in parks and other public spaces in the District. These activities discourage visitors to the District, hamper economic and neighborhood development, and facilitate serious criminal activity. The Committee directs the Metropolitan Police Department [MPD], in consultation with the Council, the Mayor, the Authority, and relevant Federal law enforcement agencies, to develop and implement a plan to end such activities and ensure that public spaces are safe and attractive for families and others seeking legitimate recreation. The Committee further directs the MPD to adopt a zero tolerance enforcement strategy for public space misconduct during fiscal year 1998.

Performance and Financial Accountability Requirements—The bill includes the Senate provision amending the Federal Payment Reauthorization Act of 1994 relating to performance and financial accountability requirements for the District government. Section 130 shifts responsibility for preparing the performance accountability plans from the Mayor to the Authority. Responsibility for the financial accountability plan and report is shifted from the Mayor to the Chief Financial Officer. In addition, the bill amends the dates for submission of the plans and report to Congress.

Section 138. This section contains a new provision that requires the Authority to submit to the Congressional committees of jurisdiction quarterly reports that include an itemized accounting of all non-appropriated funds obligated or expended by the Authority for the quarter.

United States Park Police—The Committee agrees to the House recommendation for a $12,000,000 appropriation for the United States Park Police. The Committee intends that the appropriation in section 141 is new Federal funding authority and is not to be an offset against any existing appropriations. The Committee intends this appropriation as a separate appropriation to be available only for the United States Park Police operations in the District of Columbia.

District of Columbia Homeless Services—Section 142 provides that the District government maintain for fiscal year 1998 the same funding levels for the District's homeless services as were provided in fiscal year 1997.

Sections 144 and 145.—The bill includes two provisions related to alcohol abuse, with a special emphasis on youth alcohol use, in the District of Columbia. The Committee recognizes that this is a serious problem in the District of Columbia, as it is throughout the nation. The first provision would increase the number of Alcoholic Beverage Commission inspectors in the District to sixteen and increase the emphasis placed on enforcement of laws prohibiting the sale of alcoholic beverages to minors. Currently, the D.C. Alcoholic Beverage Commission has just three inspectors in the field in addition to their chief, who also performs inspections of alcohol outlets. These four inspectors are responsible for monitoring over 1,600 alcoholic beverage outlets. In contrast, Baltimore employs 18 regular inspectors in addition to a number of part-time inspectors. It is illegal for persons under the age of twenty-one to purchase, possess, or consume alcoholic beverages in the District. In addition, the sale of alcoholic beverages to minors is prohibited. The Committee is concerned that these laws are not being adequately enforced.

The second provision calls for the General Accounting Office to conduct a study of the District's alcoholic beverage excise taxes. The study should examine whether increasing alcoholic beverage excise taxes would be useful in reducing alcohol-related crime, violence, deaths, and youth alcohol use. The study will also explore whether alcohol is being sold in close proximity to schools and other areas where children are likely to be and whether the creation of alcohol free zones in areas frequented by children would be useful in deterring underage alcohol consumption.

District of Columbia Day-care and Home-care Operation.—The Committee is concerned that a significant number of District of Columbia day-care and home-care operations have been allowed to operate without proper licenses. The Committee is also concerned that the District government is failing in its mission to monitor effectively overall safety and quality standards at these facilities. These problems have reached crisis proportions, undermining welfare reform implementation and resulting in an unacceptable risk of harm to the children of the District. For these reasons, section 146 of the bill allows the District to expend such funds as may be necessary to hire additional monitors and inspectors at the appropriate City agencies to promote quality child care in the District. The Committee also expects this issue to be addressed in the development and implementation of the management reforms authorized by the District of Columbia Management Reform Act of 1997.

Section 159. The bill includes a technical amendment to a provision concerning the pay of officers and members of the United States Secret Service Uniformed Division, recently enacted in section 118 of Public Law 105–61, the Treasury and General Government Appropriations Act, 1998. Due to a drafting error, the world ''locality'' was substituted for ''longevity''. The amendment is retroactive to the date of enactment of Public Law 105–61.

Section 160. The bill provides $3,000,000 for a Medicare Coordinated Care Demonstration Project in the District of Columbia. This pilot program was authorized in the Balanced Budget Act of 1997, Public Law 105–33, section (e)(1)(A)(ii), for the purpose of reducing Medicare costs. The pilot program will establish specific Clinical Pathways for more cost-effective treatment of patients in the high-volume, high-cost Disease Related Group [DRG]. It is expected that this pilot project will help develop improved diagnostic and therapeutic procedures for treating the District's Medicare patients at reduced costs and provide the basis for more cost-effective national standards.

Section 161. This section provides that the Authority shall have the responsibility for approving both reorganization plans and any authorization for programs or functions for which a reorganization plan is required.

Section 162. The bill includes a technical amendment to correct drafting errors and to clarify statutory language to reflect the intent of the conferees of the Balanced Budget Act of 1997 with respect to the State Children's Health Insurance Program.

Section 163. This section provides the General Service Administration with the authority to amend the use restrictions which accompanied the conveyance of a land parcel in 1956. The amended use restrict will allow the construction of a previously approved veterans nursing home on the grounds adjacent to an existing veterans family.

Section 165. This section directs the Authority to appropriate $2,600,000 from local funds for a pay raise for uniformed fire fighters of the District's Fire and Emergency Medical Services Department. The purpose of the pay raise is to make the District's compensation for fire fighters comparable to fire fighters in surrounding jurisdictions. The Committee intends that the Authority use its discretion determine the source of the funds for the pay raise.

Section 166. This section provides a technical change to allow the Office of Personnel Management to waive the retirement annuity offset requirement for the Trustee for Offender Supervision consistent with a similar provision included in the National Capital Revitalization and Self-Government Improvement Act of 1997 for the Trustee for Corrections.

TITLE II

Section 201 sets out the short title of the Act.

Section 202 establishes a mechanism for certain Nicaraguans and Cubans who have been present in the United States since 1995 to adjust to the status of lawful permanent resident.

Section 203 modifies certain transition rules established by IIRIRA with regard to suspension of deportation and cancellation of removal. The changes state that the ''stop time'' rule established by that Act in section 240A of the INA shall apply generally to individuals in deportation proceedings before April 1, 1997, with certain exceptions. They also state that the rule shall not apply to certain applicants for suspension of deportation. The exception includes certain Salvadorans and Guatemalans who were members of the ABC class or applied for asylum by April 1, 1990 and derivatives as specified in the statute, as well as applicants from the former Soviet Union and Eastern Europe who came here by December 31, 1990 and applied for asylum by December 31, 1991 and derivatives as specified in the statute. Section 203 also makes clear that in order to obtain cancellation these individuals have to meet the standards laid out in that section, rather than the ones laid out in section 240A of the INA. Finally, the section provides for temporary reductions in visas available under the ''diversity'' and ''other workers'' immigration categories, with the reduction in the latter to take effect after those in the backlog have received visas.

Section 204 makes technical and clarifying changes to certain provisions in section 240A(e) of the INA.●

HISTORIC TOWN HALL MEETING IN BILLINGS, MONTANA

● Mr. BAUCUS. Mr. President, I rise today to recognize the accomplishments of one city in Montana in addressing the issues of gangs, violence and kids.

On September 29, 1997, a historic town hall meeting took place in Billings, Montana. This cooperative and coordinated effort involved the media, school officials, and community leaders. It also involved a critical component: experts in addressing gang activity from Los Angeles. Together this effort created an hour-long video conference called ''Gangs, Violence and Kids'' and aired it on every major media outlet in the Billings area.

This presentation incorporated a panel and studio audience format which brought in a cross-section of the population, including teenagers, represented in the region. Concerns were raised, perceptions were addressed, and issues were confronted in an honest and straightforward manner.

By no means an end to itself, this town hall meeting has launched a series of follow-up gatherings, a foundation, a mentoring connection and a pipeline of support for ongoing programs like the U.S. Department of Justice's Weed and Seed program for Billings and surrounding communities has been established.

Beginning last week, a series of 30-second public service announcements were aired to address the issues raised in the town hall meeting. This campaign will contribute to the community's understanding of how these important issues affect all our neighborhoods. I especially appreciate the significant commitment by those who have agreed to continue in their role as advocates for change.

I am extremely proud of what Billings has accomplished and how its residents strive to respond to important issues. I hope my colleagues will agree that this successful effort in Billings is a model that can be duplicated in their community.●

FUNDING FOR THE UNITED NATIONS

● Mr. FEINGOLD. Mr. President, I want to express my disappointment that—due to compromises made during negotiations over three separate conference reports, the Foreign Operations Appropriations bill for FY 1998, the Commerce, Justice, State Appropriations bill for FY 1998, and the State Department Authorization Act for FY 1998–99—conferees were forced to trade away authorization and appropriations that would have cleared existing U.S. debt to the United Nations. As the Senate adjourns for the holiday recess, only a fraction of the $900 million in arrears payments that was originally proposed by the Senate Committee on Foreign Relations on which I serve was included in the CJS appropriations bill.

Mr. President, what this means is that we will still be in substantial debt to the United Nations.

Mr. President, the United Nations is not a perfect organization. I certainly have some real concerns about the size and extent of the UN bureaucracy, for example. Just as with any organization this big, we must be on guard against possible mismanagement or abuse, and certainly the U.N. system has had its share of both.

But at the same time, I think that U.S. participation in the United Nations—with all the benefits and costs that membership implies—is an indispensable tool in this country's foreign policy bag. When it operates effectively, the United Nations provides a framework to serve U.S. interests at the same time that it achieves economies of scale.

Just this week, Mr. President, the United States is working within the U.N. structure to assert a united front against the flagrant abuses of international law exercised by Iraq in recent weeks. Mr. President, if nothing else, the crisis in Iraq aptly demonstrates the value of the United Nations to our country.

I would make a similar point about the role the United Nations plays in peacekeeping operations. U.N. forces have participated in more than 40 peacekeeping operations around the world since 1948. Members of this body may have disagreements over whether or not each and every one of those was necessary, but when you look at places where the U.N. has been instrumental in maintaining cease-fires or providing humanitarian relief, it is clear that the United States can achieve its national interest goals at a lower cost to U.S. taxpayers than would be possible if the United States tried to do it alone.

Mr. President, during the listening sessions that I conduct in the 72 counties in the state of Wisconsin, I hear sympathetic words from my constituents about the need for the involvement of the international community in times of crisis. But they also express hesitation about sending their sons and daughters to fight in far-away conflicts.

The United Nations provides a mechanism through which the United States can contribute to international security without having to send our own troops every time there is a problem.

The U.N. reform and funding package that was agreed to in the Foreign Relations Committee was a carefully crafted compromise between those that would limit or eliminate U.S. participation in the United Nations and those that would like to see a fully funded and active United Nations.

But, Mr. President, due to the intransigence of some of our colleagues in the other body, it appears that the moral and legal obligations of the United States to pay its debts to the United Nations have been sacrificed to serve an unrelated domestic interest.

The compromise package worked out in our Committee would have gradually decreased the amount of our assessed contribution to the United Nations from the current level of 25 percent, to 20 percent by fiscal year 2001. Assuming the budget for the United Nations remained constant, the time line set forth in this package could have saved the US taxpayer at least $375 million over the next four years from a combination of savings from the assessments and from budget discipline. It would have allowed us to continue our participation in the United Nations, which I think is important, while at the same time achieving some real cost savings for the taxpayer.

Now, with authorization of repayment of these arrears in jeopardy, it remains unclear how the United States will manage to clean the slate with the United Nations.

Mr. President, I hope we will be able to resolve this issue when the Senate returns for the 2d session of the 105th Congress.●

NATIONAL D-DAY MEMORIAL

● Mr. WARNER. Mr. President, on Tuesday, I was privileged to attend the dedication of the National D-Day memorial. Located in Bedford, VA, among the grandeur of the Blue Ridge Mountains, this memorial truly dignifies those who participated in the historic military operation of June 6, 1944.

As many of my colleagues may recall, there had not been a national memorial honoring those who served in

the D-Day operation. Last year, I offered legislation to establish the National D-Day Memorial and, again, I thank my colleagues for supporting that legislation.

Gov. George Allen of Virginia, Col. Robert Doughty, and Col. William McIntosh each spoke eloquently on the D-Day operation and the importance of the National D-Day Memorial. I am submitting the text of their remarks and the schedule of the ceremony for the RECORD.

I invite my colleagues to review these remarks.

The remarks follow:

GROUNDBREAKING FOR THE NATIONAL D-DAY MEMORIAL, TEN O'CLOCK, TUESDAY, NOVEMBER ELEVENTH, NINETEEN HUNDRED AND NINETY-SEVEN

March Slav, Tchaikovsky—Jefferson Forest High School Band; Forest, Virginia; David A. Heim, Director.

Invocation—Rabbi Tom Gutherz, Agudath Sholom Synagogue, Lynchburg, Virginia.

Presentation of the Colors—US Marine Corps Color Guard, Company B, 4th CEB; Roanoke, Virginia.

The Star Spangled Banner—Harmony Choral Group, Liberty High School; Bedford, Virginia; Terry P. Arnold, Director; Jefferson Forest High School Band.

Posting of the Colors—Color Guard.

Preamble—COL William A. McIntosh, USA (Ret.), Director of Education, National D-Day Memorial Foundation.

Welcome—John R. Slaughter, Chairman, National D-Day memorial Foundation.

Greetings from Abroad—Josh Honan, President, D-Day Association, Ireland.

D-Day Then, Now, and Tomorrow—COL Robert A. Doughty, Head, Department of History, US Military Academy.

Congressional Salutations—Honorable Virgil H. Goode, Jr., House of Representatives, Washington, DC, Honorable Bob Goodlatte, House of Representatives, Washington, DC, Honorable Charles S. Robb, The United States Senate, Washington, DC, Honorable John Warner, The United States Senate, Washington, DC.

The Virginia Commonwealth's Welcome—The Honorable the Governor of Virginia George Allen, Jr.

Groundbreaking—Richard B. Burrow, Executive Director, National D-Day Memorial Foundation.

Retrieval and Retirement of the Colors—Color Guard.

Benefiction—The Rev. J. Douglas Wigner, Jr., Rector, St. Paul's Episcopal Church; Lynchburg, Virginia.

The Stars and Stripes Forever, Sousa—Jefferson Forest High School Band.

STATEMENT OF PURPOSE

By Col. William A. McIntosh, USA (Ret.)

The National D-Day Memorial Foundation's strength, both institutionally and operationally, is closely tied to a conscious and deliberate commitment to its mission, a statement that bears repeating here: The purpose of the National D-Day Memorial Foundation is to memorialize the valor, fidelity,and sacrifices of the Allied Armed Forces on D-Day, June 6, 1944. Its specific mission is to establish in Bedford, Virginia, and maintain for the nation, a memorial complex, consisting of a monument and education center, that celebrates and preserves the legacy of D-Day. Its operational objectives are to ensure the operation, integrity, and security of the D-Day Memorial Complex; to sponsor innovative commemorations, educational programs, projects, and exhibits, that foster an awareness of D-Day's historical significance; and to seek and provide educational opportunities that will preserve, for present and future generations, the meaning and lessons of D-Day.

Our immediate focus, to which today's ceremony bears witness, is on construction of a monument. And so it should be. But, as the mission statement explicitly indicates, the long-term focus of this enterprise is education. It is through education—ultimately, only through education—that a memorial sustains its meaning, to say nothing whatever of its immediacy.

The older generations know why they are here; those less old feel they should be here but are perhaps less sure why; most of the youngsters are here because someone brought or compelled them. A few of those children will participate with the assembled dignitaries in the actual groundbreaking. That intergenerational participation, symbolic on one level, will have been real enough by ceremony's end. And no one will leave this place without knowing why this event has taken place or, finally, why he or she came.

In warranting the National D-Day Memorial to rise up outside Washington—to take root on the same heartland soil that once held seed that flowered on D-Day and came to harvest in a liberated Europe—the Congress of the United States acted with noteworthy courage and vision. It will, through its ongoing educational and interpretative programs, memorialize, for present and future generations, the valor, fidelity, and sacrifices of the Allied Forces on D-Day. Such is its national duty—and its particular privilege.

THE MEANING OF D-DAY

(By Col. Robert A. Doughty, USA)

During the twentieth century, American armed forces have often used the generic term ''D-Day'' to indicate the date a military operation would begin. By using the term D-Day commanders and planners could orchestrate the logical, sequential arrival of units and equipment. Planners could anticipate, for example, on D+1 certain actions occurring or specific units arriving. Using the term D-Day also permitted military commanders to change the date of operations easily without causing confusion or disrupting preparations. General Dwight D. Eisenhower, for example, changed the date of the landings in Normandy because of bad weather. Thus, American planners in World War II often used the term D-Day to assist in the planning and conduct of operations in the Pacific and European theaters.

After June 6, 1944, however, the term D-Day became synonymous with the landings on the Normandy beaches and the beginning of what President Franklin D. Roosevelt called the ''mighty endeavor.'' The day marked the decisive coming to grips with the Germans for which the Allies had been preparing since the fall of France and the withdrawal of the British from Dunkirk. D-Day marked a major step in winning a victory over the Axis powers in Europe.

Many years after the invasion General Omar N. Bradley, who commanded the American First Army in the operation, said, ''Even now it brings pain to recall what happened there on June 6, 1944. I have returned many times to honor the valiant men who died on that beach. They should never be forgotten. Nor should those who lived to carry the day by the slimmest of margins.'' Bradley noted that every man who set foot on those beaches that day was a ''hero.'' He later wrote, ''Freedom is not a gift, and . . . democracy can extract both stern and unequal payment from those who share its bounty. Freedom is neither achieved nor retained without sacrifice by individuals, often in unequal measure.''

A tragic part of that ''unequal measure'' was paid by the people of Bedford, Virginia. On the morning of June 6, 1944, D-Day, about sixty percent of A Company, 116th Regiment, 29th Infantry Division, had come from Bedford. As part of the first wave in the landings on Omaha Beach, A Company confronted some of the strongest enemy resistance Allied forces encountered that fateful day. In the short space of only a few minutes, A Company lost 96% of its effective strength. War always has been and always will be a terrible thing, and it indeed was a terrible thing that morning for the men of A Company, 116th Regiment.

To me, the final meaning—and perhaps the most important meaning—of D-Day comes from the memory of those men who died on the Normandy beaches or who sacrificed their health and their futures in those desperate moments. Gathered from across America, these young men knew the price of liberty was high and willingly risked their lives to defend freedom. Their sacrifice ensured that the term D-Day will always be associated with only one day, the day the Allies landed at Normandy, and will always represent a noble cause, a courageous effort, and a gallant commitment to the highest ideals of this nation.

Today, this memorial to D-Day commemorates the achievements of June 6, 1944, but it also reminds us of the challenges of defending liberty and the costs of remaining free. Let us remember the importance of the landings on the coast of France but let us never forget the young men who made that operation a success, who charged forward despite fearful losses. As the inscription in the Normandy memorial suggests, let us always remember the glory of their spirit.

REMARKS BY GOVERNOR GEORGE ALLEN AT THE NATIONAL D-DAY MEMORIAL GROUNDBREAKING IN FUTURE MEMORIAL SITE, BEDFORD, VIRGINIA, NOVEMBER 11, 1997

This certainly is an invigorating morning! It is good to see United States Senators John Warner and Chuck Robb; Representatives Bob Goodlatte and Virgil Goode; Members of the General Assembly; Chairperson Lucille Boggess; Mayor Michael Shelton; Josh Honan, President of the D-Day Association of Ireland; John Slaughter, Chairman, and Members of the National D-Day Memorial Foundation; Colonel Robert Doughty; Colonel Smith; honored guests all; and most especially veterans and their families. On behalf of the people of Virginia, welcome!

Your presence honors our Commonwealth. We are grateful to have you here to help break ground for the National D-Day Memorial in Bedford County, Virginia.

This is an historically significant, commemorative occasion for all Americans, indeed, for all freedom-loving people on earth and in the heavens.

Veteran's Day is a time for respectful reflection as we honor and remember all those brave men and women of the United States Armed Forces who have served us to secure and protect our nation's interests, including our God-given rights and freedoms, as well as those rights and freedoms for our fellow human beings everywhere.

From the cold, snow-covered fields at Valley Forge to the hot, desert storms of the Persian Gulf and Kuwait, and even today in Bosnia, Virginians and Americans have served nobly, and with great distinction, whenever and wherever Duty's clarion call has sounded.

We salute all of our veterans and their families who have stood against tyranny in

defense of liberty in times of war and peace. And on this Veteran's Day, we honor those especially courageous patriots who—on that gray, windy and fateful morning on the coast of Normandy—valiantly began the eradication from Europe of the hateful plague of Nazism, fascism and totalitarian dictatorship.

It is highly appropriate that this National D-Day Memorial should find its home here in Bedford, Virginia.

As vividly described by Colonel Doughty, United States and Allied soldiers stormed Omaha Beach at dawn June 6, 1944. And brave men from Bedford County spearheaded the first wave in one of the greatest military feats in the annals of world history.

Virginia remembers with pride the noble legacy of the 29th Division, especially the citizen-soldiers of the imperishable ''Stonewall Brigade'' who waded, scrambled, fought and overcame entrenched forces on high, formidable bluffs.

While Time has washed away the blood of our fallen heroes from the beaches and cliffs of Normandy, Time has not washed away, and must not dim, our memories of those horrific and heroic events—how they fought; how they died; and how they won freedom for the people of Europe and the world.

Whether by hard-fought victory or through steadfast vigilance, each generation passes on to the next lessons: lessons in the sometimes high price of freedom.

This Memorial will be a thoughtful, magnificent tribute to the Americans and Allies who began the liberation of the European continent during that ''Longest Day.''

Right here in Bedford, Virginia, people from around the world can—and will—come to visit, learn and pay their respects to heroes of unselfish character and undaunted courage.

This Memorial will add meaning to the strong, silent testimony of those men who lost their own future in making secure for others the responsibilities and opportunities that come from freedom.

By breaking ground for this National D-Day Memorial, each of us is helping to ensure that the eternal flame of freedom will never be extinguished by force from without or by neglect from within.

Through the hard work of so many, we are bequeathing to our children a greater appreciation and respect for the many blessings of liberty, and a better understanding of their responsibility to nurture and protect it.

In closing, I pray God will continue to bless Virginia and the United States with people of such honor and character as those we remember this Veteran's Day, so that our United States will always be a beacon of hope, opportunity and freedom.

Veterans: we gratefully salute you in our minds and in our hearts!●

100TH ANNIVERSARY OF THE FRANCISCAN FRIARS AND SISTERS OF THE ATONEMENT

● Mr. MOYNIHAN. Mr. President, December 15, 1997 will mark the 100th anniversary of the Order of the Franciscan Friars and Sisters of the Atonement. The Order was founded by Father Lewis T. Watson and Mother Lurana White in Garrison, New York with the goal of promoting Christian unity. The Friars and Sisters continue their mission work through the promotion of the Week of Christian Unity and the operation of ecumenical centers and libraries.

Through the years, the Friars and Sisters of the Atonement have remained in Garrison where they now operate the Graymoor Ecumenical and Religious Institute. At Graymoor they publish a monthly magazine, Ecumenical Trends, and operate St. Christopher's Inn, a temporary shelter for homeless men, whom they refer to as ''Brothers Christopher'' or Christ Bearers.

The influence and the good work of the Friars and Sisters extends well beyond the Hudson Highlands region of New York, reaching throughout the United States, Canada, Europe and Asia. They operate day care centers, Retreat Houses, Head Start programs, and shelters for battered wives and children. They minister to the poor, feed the hungry, and embrace the marginalized worldwide. Not only do they seek unity of the Christian community, but also unity of the human spirit and unity of the human community.

True to their cause of Christian unity, they have dedicated their lives to the hope ''that all may be one. . .that the world may believe.'' I commend their single-heartedness and congratulate them on the occasion of their 100th anniversary.●

CHILD EXPLOITATION SENTENCING ENHANCEMENT ACT OF 1997

● Mr. FEINGOLD. Mr. President, I rise today to voice my disappointment that in the final hours of this legislative session, a piece of legislation sponsored by my colleague, Senator DEWINE and I, S. 900 has apparently been stopped from passing the Senate because of an objection from the other side of the aisle.

S. 900 is a bi-partisan effort to address the growing problem of criminals using the Internet to contact and target young children that they ultimately sexually abuse and exploit. This bill requires the United States Sentencing Commission to create a sentencing enhancement for criminals who use the Internet to facilitate sexual crimes against young people. The legislation also increases penalties for repeat sexual offenders.

S. 900 has, on two occasions, received the unanimous support of the Senate Judiciary Committee. It has passed the Committee as a free-standing measure and was adopted as an amendment to juvenile justice legislation considered by the Committee earlier this year. Yet, we are now told that the bill has been held. I find it troubling that someone would object to legislation designed to help protect young children from being sexual abused and molested and that such objection would be made, without providing Senator DEWINE or myself an opportunity to address whatever concerns might exist.

Mr. President, the misuse of the Internet is a growing problem. FBI Director Freeh has testified to this fact and the National Center for Missing and Exploited Children—which supports the DeWine/Feingold legislation—agrees that the situation is a growing concern. S. 900 is a straightforward, bipartisan effort to send the message that pedophiles and child molesters will not be allowed to exploit the Internet to commit their illicit crimes against children. While I regret that someone has chosen to slow this effort to protect children, I fully intend to return to this issue next year and will continue to push for the adoption of this legislation.●

UNANIMOUS CONSENT AGREEMENT—H.R. 2267

Mr. GREGG. Mr. President, I ask unanimous consent that when the conference report to accompany H.R. 2267, the appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies is received, if it is identical to the document filed earlier today, it be deemed agreed to and the motion to reconsider be laid upon the table, all without further action or debate.

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

THE COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS BILL

Mr. GREGG. Mr. President, I would like to take a few minutes at this time to especially thank my staff, headed by Jim Morhard, and so many other members of the staff on both the Democratic and Republican side, who have spent literally hours, including all the hours of last night and many other evenings, but the entire night, getting this bill into a position where it could be passed. It is, as it appears to be, the last appropriations bill to be passed by the Senate and the House and, as such, it has had more than its fair share of issues attached to it. But as a result of the diligent and extraordinary work of the staff, both the Democratic and Republican staff, it is now, I believe, close to successful conclusion, and I anticipate that the House will soon be passing it, and it will be, as we have just agreed to here in the Senate, deemed passed.

The bill itself is a very strong piece of legislation. It makes an extraordinarily aggressive commitment to supporting and expanding our efforts in the area of law enforcement, in the area of trying to stop the drugs that are flowing into this country, in protecting our borders and expanding our efforts to make sure that people who are convicted, especially of violent crimes, are incarcerated and kept in prison.

It has a very strong commitment also to prevention activities in the area of our justice system. Special emphasis has been put on the violence-against-women initiatives, which are funded at $270.7 million in this bill, an increase of almost 55 percent in this category since I became chairman in 1995.

Also, we have put a special emphasis on attempting to address the problems of the Internet relative to child pornography and, unfortunately, the fact that many pedophiles—people who wish to harm our children—are using the Internet for purposes of stalking children. We have continued, supported, and expanded the FBI's initiatives in things like ''Innocent Images'' which is a sting program to try to catch pedophiles and child pornographers. We expanded it so that local and State law enforcement communities will have experience in this area and can take advantage of the protocols set up by the FBI.

Further, we recognize that juvenile crime is one of the greatest problems in the country today, and we have attempted to address that through the expansion of the juvenile justice programs, especially the preventive programs. I see Senator COATS here on the floor, who has been a force of immense energy in the area of trying to address juvenile prevention programs, such as Big Sister/Big Brother, and Boys and Girls Clubs, which is funded under this program. We have also created a new block grant, the purpose of which will be to help local communities in the area of juvenile justice. This block grant is aggressively funded with $250 million.

There is, in addition, a comprehensive effort—it is a continuing effort—to address terrorism activities and to pursue an aggressive policy of counterterrorism. We all recognize, especially with the events of the last few days that have occurred in Pakistan, that Americans are at risk overseas. They are also, regrettably, at risk in our own country. We have seen two trials just recently completed, one involving the New York Trade Center, the other involving a shooting outside the CIA. Counterterrorism requires that we have a coordinated effort and that we have a strong law enforcement element in that coordinated effort, and this bill pursues both those activities.

Senators who represent States along our border, our southern border especially, have found very serious problems in the area of drug enforcement and in the area of illegal immigrants coming across the border, so we are dramatically expanding the number of INS border patrols in this bill, increasing them by 1,000; including $250 million in new initiatives to try to restore the integrity of the naturalization process, which unfortunately has fallen on hard times, to say the least. That may not be the best description of it, in fact, because the system has so collapsed. This bill puts the dollars necessary to give adequate support to the INS, and also it dramatically expands the Border Patrol efforts so that States like, especially, Texas and Arizona, which need additional border patrols, will be able to obtain them.

It significantly expands our efforts in the area of NOAA activities. This is one of our premier national treasures in the area of research and technology, the National Oceanic and Atmospheric Administration. It is an organization which has cutting-edge knowledge in a variety of areas, but especially in the prediction of our weather. We aggressively pursue the expansion of our efforts in weather research and information areas.

We give our judges a cost-of-living increase, something they deserve. This bill covers a lot of different jurisdictions, as is known by most of the Senators. One that doesn't get too much attention is the fact that it covers the judicial branch of our Government. We are going to try to help the Supreme Court out and renovate the Supreme Court building, but at the same time we are going to give our judges a reasonable cost-of-living adjustment.

In the area of the State Department, we concentrate aggressively in trying to get their physical house in order. It is really a national disgrace, the type of equipment that some of our overseas personnel are asked to use. We still have dial phones in some embassies that we fund around the world. Many of our facilities are simply decrepit and rundown. We have made a major commitment to rehabilitate our facilities and to expand the communication and technology attributes of the State Department.

In addition, we are making a major commitment to the personnel of the State Department. I believe they and their families deserve our support, especially in the area of giving them adequate security. We aggressively pursued that.

Other agencies, the Small Business Administration, FCC, FTC, all of which are covered by this bill, are also aggressively addressed. We do all this in the context of a bill that, although it spends a considerable amount of money, over $31 billion, spends less than what the President requested and is clearly within the budget, which is a balanced budget, I would note, as a result of the budget passed by this Congress.

So, again, I thank the staff for their extraordinary work in this area. I appreciate especially the assistance of the leader in allowing us to get this bill finally resolved. Without his intervention at a number of critical stages, it would not have been pulled together. I very much thank him for his assistance in this effort.

I also especially want to thank my ranking member, Senator HOLLINGS, who is really a great fellow to work with. He has a tremendous institutional history of how this committee works, and where the funding comes from, and what has happened in the past. His counsel has always been extraordinarily useful to me.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I extend my congratulations to the Senator from New Hampshire for his work on this very important appropriations bill. I should note it is the 13th and final appropriations conference report, the last one across the line, but a big one and an important one—Commerce, State, and Justice and related agencies. It also became a vehicle for a number of Senators to attempt to address problems, as it was the last conference report to go through the Congress. It was quite a struggle, but an important one. I commend the Senator from New Hampshire for his good work. I should also note the cooperation he received from the ranking member, the Senator from South Carolina. I thank the Senator for his work. I am glad we had our colleagues from the other side of the Capitol also work with us on this effort, which was a very interesting experience.

Mr. BIDEN. Mr. President, I come to floor today to discuss the new juvenile justice grant program contained in the appropriations bill for the Commerce, Justice, and State Departments. Of course, I would have preferred the appropriators to defer to the Judiciary Committee, which considered juvenile crime legislation for over a month and reported a bill to the Senate floor, so we could have a full debate and develop effective, comprehensive juvenile crime legislation.

That said, I am pleased that the conference report addresses one of my primary concerns by relaxing the mandates contained in earlier proposals that would have required States to try more juveniles as adults to qualify for federal funding.

Recall that the juvenile crime bill passed by the House of Representatives last spring would have disqualified States from receiving federal funds unless prosecutors had complete discretion to try certain 15-year-olds as adults. Similarly, as originally introduced, the Senate Republican's youth crime bill —S. 10—would have required States to give prosecutors unfettered discretion to try 14-year-olds as adults, even for minor crimes, to qualify for funding. S. 10 as passed by the Committee loosened this restriction substantially, by enabling States to qualify for funding so long as 14-year-olds were eligible to be tried as adults for serious violent crimes, which they already are in almost every State.

Similarly, the new program contained in the appropriations bill passed by Congress today does not require States to change their laws on trying juveniles as adults. All a State must do to participate in the new program is to certify that it is ''actively considering'' such changes in policy. So, a State can say, ''we're going to think about it,'' introduce legislation but not enact it, or even reject legislative changes and still qualify for the new federal youth crime fighting funds.

I support this relaxation from the earlier proposals because trying more juveniles as adults is likely to be counterproductive. The research shows that juveniles tried in the adult system are

more likely to be released on bail, less likely to be convicted, punished more slowly, and incarcerated less frequently than in the juvenile justice system. If we want to get tough on juvenile crime, trying kids as adults is the wrong answer.

What is more, placing juveniles in adult jails—where they have exposure to hardened criminals—will only make them more likely to commit crimes once they get out. So despite popular opinion, trying more kids as adults may make our crime problem worse, not better.

Instead of imposing unproven, Washington-based solutions on the States, the best thing the federal government can do is provide local law enforcement, prosecutors, juvenile courts, and community based organizations additional funds to develop creative, comprehensive strategies to address juvenile crime. Such strategies are beginning to bear fruit across the country as juvenile crime has fallen significantly in the past two years.

The new juvenile crime block grant takes a partial step in the right direction by providing $250 million for juvenile justice system improvements. But this new program is deeply flawed by failing to permit State and localities to use any of these funds for juvenile crime prevention programs. Police chiefs and prosecutors around the country are emphatic that to be effective in combating juvenile crime, we have to combine tough enforcement with effective prevention programs. The new block grant sends the wrong message to our States and localities by requiring that all the funds be spent on enforcement and juvenile justice system improvements.

I am also concerned that the new program will not result in sufficient funding for juvenile prosecutors. Past experience has shown that block grants that flow through local governments do not result in very much funding for prosecutors offices. In the Senate youth crime bill, we have established a grant program—albeit an underfunded one—that would provide federal funding directly to prosecutors specifically for juvenile crime fighting efforts. I will work to fix these and other flaws in the new program when we consider youth violence legislation next year.

Mr. LEAHY. Mr. President, I want to let my colleagues know that tucked in the hundreds of pages of provisions on appropriating federal funds on existing programs in this conference report is legislative language to create a new $250 million grant program, called the ''Juvenile Accountability Incentive Block Grant.'' This newly authorized program is based on the block grant program in H.R. 3, the ''Juvenile Crime Control Act of 1997,'' although that bill have not passed or even been considered by the Senate.

This new program sounds great until you look at the proverbial fine print. Because of all the new requirements on the States this is just a tease—many States won't qualify for a penny of this money under H.R. 3 as passed by the House of Representatives on May 8, 1997.

For instance, H.R. 3 mandates that a state must set up a new system of record keeping relating to juveniles that is equivalent to the record keeping system for adults for similar conduct under state and Federal law to be eligible for this block grant. Many states would be forced to make considerable changes to their laws to comply with this mandate. And the cost of complying with this mandate, which would require capturing records for minor juvenile offenses too, is totally unknown.

My home state of Vermont, for example, would not qualify for the block grant in H.R. 3, even though my State has some of the toughest juvenile crime laws in the country, and has the lowest juvenile violent crime rates in the country. Massachusetts will not qualify either, even though that State has made enormous progress in reducing its violent crime problem. Our two States must be doing something right.

I ask why we are being forced to take up the ill-considered H.R. 3 block grant on an appropriations bill. The answer is because the Republican leadership says so. Otherwise, they might miss out on claiming credit in connection with fighting juvenile crime before Congress adjourns. I guess in their minds nothing happens that does not involve their political agenda. Fighting juvenile crime should not be about politics. Unfortunately, this heavy-handed effort is purely partisan. For a group that preaches states' rights, the Republican Leadership has no trouble trampling the hard work and insight of 50 state legislatures who have enacted juvenile crime legislation. H.R. 3 is a presumptuous attempt to have the heavy hand of the federal government dictate state criminal justice policy. This is the wrong way to craft serious legislation.

The Senate Judiciary Committee spent eight mark-ups over two months earlier this year in crafting its juvenile crime bill, the ''Violent and Repeat Juvenile Offender Act of 1997,'' S. 10. Why did Chairman HATCH and the other members of the Judiciary Committee work so hard to try to craft a bill if the Republican leadership is just going to slip parts of the House bill into a spending bill at the last minute before Congress adjourns for the year? Every Member of the Judiciary Committee worked many hours to revise S. 10 before it was reported by the Committee to the full Senate. This bill still has major problems, but is much improved because of that deliberative legislative process and much better than its House companion, H.R. 3. I am hopeful that S. 10 can be further improved on the Senate floor.

This juvenile block grant approach is flawed and would benefit from attention through the normal legislative process of hearing, public comment, review, Committee consideration, amendment and report, Senate action and House-Senate conference. Instead, the Republican leadership is trying to force this flawed block grant through the Senate.

Fortunately, we in the Senate have been able to modify the flawed block grant program in H.R. 3 to make it tolerable before it was included in this appropriations bill. I want to thank the Ranking Member of the Senate Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, Senator HOLLINGS, and the Subcommittee's Chairman, Senator GREGG, for working with me, Senator BIDEN, and other Members of the Senate Judiciary Committee.

Our modifications make it clear that every state is eligible for the juvenile crime block grant program in this conference report. To qualify for the block grant program in this conference report, the Governor of a State may certify to the Attorney General that the State will consider legislation, policies and practices which if enacted would qualify the State for a grant under H.R. 3. Governor Dean of my home State has indicated to me that he is willing to make such a certification for Vermont to be eligible for this block grant. We have also limited this program to the 1998 Fiscal Year and made it subject to future authorization legislation.

Mr. President, I stand ready to work with my colleagues on both sides of the aisle and in both houses of Congress to enact carefully considered legislation to reduce and prevent juvenile crime. But this hastily conceived block grant approach as part of this appropriations bill is the wrong way to achieve those goals.

Mr. HOLLINGS. Mr. President, I'm pleased to join our Subcommittee Chairman, Senator GREGG, in presenting this Fiscal Year 1998 Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Conference Agreement to the Senate. This is a good agreement that has been worked out in a bipartisan fashion. It has taken us over six weeks of negotiations with the House to reach consensus. I should note that the Senate passed our version of the bill back on July 29 by a vote of 99 to 0.

In the Commerce, Justice, and State appropriations bill we fund programs ranging from the FBI to our State Department embassies overseas, to fisheries research and the National Weather Service, to the Supreme Court and the Federal Communications Commission. It requires a balancing act of the priorities of the Nation, of the sometimes shared and, as we have seen in this conference, more often competing interests of our colleagues here in the Congress, and the priorities of the Administration—all within the confines of our 302(b) allocation. I think Chairman GREGG and his able staff—Jim Morhard, Kevin Linskey, Paddy Link, Dana Quam, Carl Truscott and Vasiliki

Alexopoulos—have done an outstanding job in balancing these interests in their work with our counterparts on the House Appropriations Committee. In the face of a very involved House Republican leadership and an administration that tried to give away the store in an effort to buy fast-track votes, we have held our own—and I fully support the agreement that we are considering today.

In total, this bill provides $31.777 billion in budget authority, $158 million more than the Senate-passed bill. We have $1.881 billion more than was appropriated last year, and the bill is $275 million below the President's request.

Once again, the CJS appropriations bill makes it clear that Congress is intent on funding Justice and law enforcement as a top priority. This bill provides appropriations totaling $17.5 billion for Justice—an increase of $1 billion above last year for the Justice Department. Including fees we provide the Department through appropriations action, the total Justice Department budget is $19.5 billion.

Within the Justice Department, the FBI is provided $2.9 billion. Included in this is a large increase of $143 million for the FBI to enhance its counterterrorism activities. This amount includes $54 million to acquire counterterrorism readiness capabilities for responding to and managing incidents involving improvised explosive devices, chemical and biological agents, and cyber attacks. Also, $10 million is provided to stop child exploitation on the Internet, a new issue affecting our youth that this Committee held a special hearing on earlier this year. We have provided enhanced funding to reinvigorate our battle against organized crime and to combat the La Cosa Nostra's efforts to penetrate the securities industry. Finally, we have provided $44.5 million which will complete the new FBI laboratory at Quantico, Virginia.

The Drug Enforcement Administration is funded at $1.1 billion. Included in this amount is $34 million for 60 new agents, $30 million for counter-drug efforts along the Southwest border, $11 million targeted for methamphetamine production and trafficking, and $10 million and 120 positions for efforts to reduce heroin trafficking—all priorities of the Senate.

Also in Justice, the bill enhances INS border control by recommending 1,000 new Border Patrol agents, restoring the integrity of the naturalization process, and expanding revocation, incarcerations, and deportation activities. The INS is funded at $3.8 billion. A program that most members have been hearing about from their constituents is the extension of 245(i). The conferees have adopted a ''grandfathering'' clause that would allow 245(i) processing for anyone who has filed with the Attorney General or for labor certification with the Department of Labor by January 14, 1998.

The CJS bill also provides funds to accelerate and expand efforts by U.S. Attorneys to collect the estimated $34 billion in unpaid child support. I'm especially pleased to note that an increase of $8.3 million is provided to activate the new National Advocacy Center in my home state. This center will provide training in litigation and advocacy to our Assistant U.S. Attorneys and State and Local Prosecutors. It will be to the U.S. Attorneys what Quanitco is to the FBI and DEA. Finally, we have included $1 million for our U.S. Attorney Rene Josey to continue his outstanding violent crime task force efforts with our state and local law enforcement personnel.

The conference agreement provides $1.4 billion for the Community Policy program and continues our commitment to put 100,000 cops on the beat. I'm especially pleased to note that we have included $100 million for an innovative program that addresses COPS retention issues in smaller communities with populations below 50,000. In these small rural communities the COPS program has been especially effective. I've seen it first hand in communities across South Carolina, and I'm pleased that the House and Senate conferees were willing to support my initiative.

Additional programs to note with Justice include: $25 million for the Regional Information Sharing System [RISS]; $505 million for the Edward Byrne Memorial Formula Grant Program and $523 for the Local Law Enforcement Block Grant Program; $30 million for Drug Courts; $238.6 million for juvenile justice prevention programs including $25 million to combat underage drinking of alcoholic beverages. This last program was offered as an amendment to the bill by Senator BYRD, Senator HATCH and myself last summer. $271 million provided for Violence Against Women Programs. $556 million is provided for State Prison or ''Truth in Sentencing'' grants and $585 million is provided for the State Criminal Alien Assistance Program.

Finally, let me point out that this agreement includes $250 million for a new Juvenile Accountability Incentive Block Grant. I know that there is some controversy among my colleagues because we have provided this funding even though the House and Senate have not collectively completed action on an authorization bill. This program provides for such programs as: building, expanding or operating juvenile detention and corrections facilities; hiring additional juvenile judges, probation officers and court appointed defenders; drug courts; and hiring prosecutors. We have provided that these funds are available to states and local governments that consider the reforms provided for the House-passed bill. We have also provided that no state receive less than .5 percent. Everyone should be clear, that we are providing this as a stop-gap measure until the Senate is able to pass a juvenile justice bill. The bill language in this conference agreement makes it clear that these conditions are only for fiscal year 1998, and will cease upon enactment of a new Juvenile Justice authorization bill.

In funding the Commerce Department, our bill provides $4.3 billion, an increase of $422 million over this year's enacted amounts. There are a number of accounts in Commerce that are worth noting.

The International Trade Administration has been allocated $283 million this year, and it's four program activities are funded at the following levels: Trade Development is at $59 million; Market Access and Compliance has a total of $17.3 million, which is an increase from last year; the Import Administration ends up at $28.7 million; and the U.S. and Foreign Commercial Service is given $171 million, an increase of almost $8 million from last year.

The Bureau of Export Administration is given $43.9 million this year. Our agreement on BXA has some components that should be of no surprise to those familiar with this program. We've funded BXA to continue their counterterrorism activities, to address their new export control responsibilities that were transferred to them from the Department of State, and to begin activities related to their responsibilities under the Chemical weapons Convention Treaty.

The Economic Development Administration, a favorite of many of my colleagues, is at the higher house level of $340 million, including $178 million for Title I Public Works program, $30 million for Title IX Economic Adjustment Assistance, $9.1 million for technical assistance, and $9.5 million for trade adjustment assistance.

The bill funded the largest account in the Department of Commerce, NOAA, at $2 billion, slightly below the higher Senate number. This includes $241 million for the National Ocean Service, $346 million for the National Marine Fisheries Service, $277 million for Oceanic and Atmospheric Research activities, and $520 million for the National Weather Service. One thing NOAA isn't lacking is in the number of programs it funds. To mention a few, it should be noted that we've provided NOAA with $3.5 million for pfiesteria and algal bloom research, a new problem that we became all to aware of over the last few months here on the East Coast. We also gave the National Ocean Service $44 million for mapping and charting so it can meet its long-term mission requirements to examine ocean activities. The popular Sea Grant program has been continued at $56 million, funds have been allocated to study that omnipresent El Nino, and continued support is given to our National Weather satellites.

I am especially pleased that we have included $1 million for our new Ocean Policy Commission, the first serious look at our ocean policy and NOAA since the Stratton Commission in the

late 1960's. I've talked with Dr. Baker at NOAA, Admiral Watkins, and Dr. Ballard—and we all believe that it is time to reinvigorate our ocean programs and put the ''O back in NOAA.'' You know, we all spend so much time looking to space and a little mechanical robot on Mars, Yet 75% of our planet is ocean, and our exploration of it is woefully lacking.

The hot topic of the Commerce Department this year and the political issue that consumed our bill, the Census Bureau, is provided with $550 million, which is an increase of $326 million. But funding wasn't the issue of controversy. Rather, we had a sticky situation to work out regarding the fate of the 2000 Decennial Census in terms of whether statistical sampling could be used for the last 10 percent of the population. The Census language that was finally agreed upon over the last few days is a compromise agreement between the White House and GOP leadership in the House which allows the Commerce Department to move forward with its efforts to plan for and conduct the year 2000 decennial census. The agreement seeks to ensure that the Federal Courts will rule on the constitutionality of using statistical sampling prior to the next census by creating expedited judicial review proceedings, and it establishes a Census Monitoring Board that will observe and monitor all aspects of the preparation of the 2000 census, including dress rehearsals.

Now for the remaining programs in Commerce—the Patent and Trademark Office was provided with $716 million, including fees; we have been hearing from the Inspector General of Commerce about poor management over there and we are going to take a close look at PTO programs next fiscal year. With respect to the National Institute of Standards and Technology, NIST, it is funded at $677 million, slightly lower than enacted levels; I'm pleased that Manufacturing Extension Centers are funded at $113 million and the Advanced Technology Program [ATP] is funded at $193 million. I'm pleased that we seem to finally be getting to a sane policy on our Commerce technology programs. They are out lead edge in the trade war. This year the rhetoric subsided, and we started to get back to normalcy and ''adult supervision'' around here, as Senator Dole would say. No one is seriously considering unilaterally disarming in the trade war and disestablishing the Department of Commerce and our technology programs.

Now to discuss the Judiciary—the total Judiciary account is funded at $3.463 billion, $200 million above enacted levels. We have provided the Federal Judges with a cost of living adjustment. And, with respect to the Ninth Circuit Court of Appeals, we have agreed on a Commission to study judicial organization. So we have avoided a veto issue and will look to the Chief Justice of the Supreme Court to pick qualified, fair experts to review the situation.

In the State Department and international programs title, we have included $4 billion for the Department of State and have supported the consolidation of our international affairs agencies. Within this amount we've provided $91 million to State and USIA to accelerate the replacement of obsolete computers and communications gear, and $19.6 million to renovate projects worldwide such as our facilities in Beijing, China. $9.5 million is provided for architectural and engineering work necessary to move our Embassy to Jerusalem, the capital of Israel. I can't think of any other nation where we refuse to recognize its capital. It is time for us to put our Embassy in the capital of Israel.

The bill has funded Contributions to International Organizations at $955 million to pay the costs assessed to the United States for membership in international organizations. Within this amount, $54 million is for payment of United Nations arrerages. Additionally, Contributions of International Peacekeeping Activities is funded at $256 million, including $46 million for payment of arrerages. So we have met our commitments under the budget agreement. I only hope that Chairman HELMS and Senator BIDEN can get a State Department Authorization bill through the Congress so we can make meaningful changes in New York, and we can reorganize our international affairs into a more rational structure.

I'm especially pleased that the conference adopted language that I proposed that requests the State Department to send a reprogramming to ensure that the United States maintains its vote in international organizations. With respect to organizations like the International Rubber Organization [INRO] we are hurting U.S. business and prestige by maintaining shortfalls. We are letting other third world nations dominate and have put the creditworthiness of the United States in a position along with the Ivory Coast and Nigeria. We need to keep current and keep our seat at the table.

Other programs to note within this Title of the bill include $1.1 billion for United States Information Administration [USIA]. Under the USIA account, the National Endowment for Democracy is funded at $30 million, the East-West Center is provided with $12 million, the North-South Center is $1.5 million, International Broadcasting is $364 million, and Educational and Cultural Exchange programs are $198 million without the Senate-passed overhead certification requirements. Additionally, $41.5 million is provided for Arms Control and Disarmament Agency [ACDA].

Finally, in the Related Agencies Title of our bill, it should be noted that the Maritime Administration was funded at $138 million, with a level of $35.5 million for the Maritime Security Program; the Small Business Administration is funded at $705 million and for its non-credit programs, the bill provides $500,000 minimum level for all Small Business Development Centers; the Federal Trade Commission is funded at $106.5 million; and Legal Services Corporation is at $283 million, including Senator WELLSTONE's floor amendment which ensure that income eligibility determinations in cases of domestic violence are made only on the basis of the assets and income of the individual.

Finally, on a separate but related note, I would like to take a moment to address a matter of importance regarding the Federal Communications Commission, which is provided for this Commerce, Justice, State appropriations bill. On July 1, the interstate access fees paid by long distance companies to connect their customers to the local telephone companies' networks were reduced by over $1.5 billion annually. AT&T and MCI responded to these reductions by announcing plans to pass these savings to their customers.

AT&T committed to reduce its day and evening rates by 5 and 15 percent, respectively, on July 15. One of the news services reported that AT&T's residential customers would save $600 million and business customers would save $300 million annually. Similarly, MCI announced it will pass along these savings to customers as well.

In the past, AT&T was regulated as a dominant carrier and regularly filed its tariffs with the Federal Communications Commission thereby providing the necessary verification of these types of savings for consumers. With AT&T now being a non-dominant carrier, it no longer has to file data with the Commission to justify its rates. There is some concern that the tariffs that AT&T and MCI have filed with the Commission do not contain a sufficient analysis to demonstrate the amount of the long distance price reductions have been passed on to consumers. At a minimum, the Commission should verify that amount of access charge reductions pledged by these carriers are passed on to consumers.

The Commission should take whatever steps it deems necessary to ensure that these carriers furnish sufficient data to verify that consumers have indeed benefited from access charge reductions. The Commission should also monitor long distance rates to insure that the benefits of these reductions are not reversed by subsequent increases.

Ensuring that the long distance carriers make good on their commitment to flow through access charge reductions to consumers in the form of lower long distance rates is an important issue that should not be overlooked by the Commission.

Mr. President, this is a good bill and I support it. We have had to make some tough decisions, but under the able leadership of Chairman GREGG and his able staff, I think we have made the right decisions. Senator GREGG has really taken hold of this bill this year. And, of course, I want to thank my

good friends in the other body, Chairman HAL ROGERS and Mr. ALAN MOLLOHAN of West Virginia. They are true professionals. They have outstanding staff, first rate professional staff in Jim Kulikowski, Therese McAuliffe, Jennifer Miller, Mike Ringler, Jane Wiseman, Pat Schleuter, Mark Murray, David Reich, Sally Gaines and Liz White.

I encourage my colleagues to support the FY 1998 Commerce, Justice, State, the Judiciary, and Related Agencies appropriations bill.

Mr. LAUTENBERG. Mr. President, I rise today to commend the work of Straight and Narrow, a non-profit organization headquartered in Paterson, New Jersey, which has been a pioneer in the field of substance abuse treatment with impressive results.

Straight and Narrow serves more than 750 people a day, almost all of them poor. Its services cover the whole spectrum of the substance abuse field, from effective prevention services for young people to treatment of the chemically dependent. Straight and Narrow's programs have been proven to deliver effective treatment at a significantly lower cost per patient than most treatment programs. National studies of Straight and Narrow's work have concluded that its results have far exceeded those of other approaches to substance abuse treatment.

Straight and Narrow is currently working in conjunction with the New Jersey Department of Corrections and the National Development and Research Institutes [NDRI] on a research and demonstration proposal to develop a national model of Straight and Narrow's approach to substance abuse treatment. This proposal includes clinical trials of the use of patient work combined with psychological counseling, family therapy, education, job training, and after care for treatment of substance abusers from disadvantaged backgrounds, including non violent prisoners.

Mr. President, I am proud of Straight and Narrow's accomplishments in New Jersey, and I believe that it would be most advantageous for the Federal Government to assist in the development of a model for the implementation of Straight and Narrow's programs on the national level. I believe that Straight and Narrow's proposal is one that the Department of Justice should seriously consider supporting, and I hope the Department will give this proposal serious consideration.

Mr. LOTT. Mr. President, before I proceed to some closing bills and Executive Calendar, I would like to consult with the Democratic leader. So 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. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

DEADBEAT PARENTS PUNISHMENT ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 271, S. 1371.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1371) to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KOHL. Mr. President, let me take a moment to explain the Deadbeat Parents Punishment Act of 1997, which I introduced with Senator DEWINE and which I drafted with the help of the administration. This measure toughens the criminal penalties we created in the Child Support Recovery Act of 1992 and creates new gradations of offenders to target and punish the most egregious child support evaders. It ensures that more serious crimes receive the more serious punishments they clearly deserve. And, Mr. President, this measure sends a clear message to deadbeat dads and moms: ignore the law, ignore your responsibilities, and you will pay a high price. In other words, pay up or go to jail.

When Senator SHELBY and I introduced the original Child Support Recovery Act, we knew that Federal prosecutors had a role to play to keep these parents from shirking their legal, and I would argue moral, responsibilities. It has been estimated that if delinquent parents fully paid up their child support, approximately 800,000 women and children could be taken off the welfare rolls. In fact, Mr. President, since that legislation was signed into law in 1992, over 386 cases have been filed, resulting in at least 165 convictions to date. And not only has that law brought about punishment, but it has also brought about payment. Collections have increased by nearly 50 percent, from $8 billion to $11.8 billion, and a new national database has helped identify 60,000 delinquent fathers—over half of whom owed money to women on welfare. Although we should be proud of that increase, we can not merely rest on our laurels. More can be done—and today the Senate's passage of the Deadbeat Parents Punishment Act is a step in the right direction.

Mr. President, as you know, current law already makes it a Federal offense to willfully fail to pay child support obligations to a child in another State if the obligation has remained unpaid for longer than a year or is greater than $5,000. However, the current law, by providing for a maximum punishment of just 6 months in prison for a first offense, makes violations only a misdemeanor. A first offense—no matter how egregious—is not a felony under current law.

Police officers and prosecutors have used the current law effectively, but they have found that current misdemeanor penalties do not have the teeth to adequately deal with more serious cases—those cases in which parents move from State to State, or internationally, to intentionally evade child support penalties. Those are serious cases that deserve serious felony punishment and, under this new measure, that serious punishment will be available.

Mr. President, I believe that making the Deadbeat Parents Punishment Act law will make a difference in the lives of families across the country. I thank my friend from Ohio, and this bill's original cosponsor, Senator DEWINE for his efforts on behalf of children and families, and I commend my colleagues in the Senate for passing this important message. I look forward to this measure quickly passing the House and being signed into law by the President.

Mr. President, I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF S. 1371, THE DEADBEAT PARENTS PUNISHMENT ACT OF 1997

The ''Deadbeat Parents Punishment Act of 1997'' amends the current criminal statute regarding the failure to pay legal child support obligations, 18 U.S.C. 228, to create felony violations for aggravated offenses. Current law makes it a federal offense to willfully fail to pay a child support obligation with respect to a child who lives in another state if the obligation has remained unpaid for longer than a year or is greater than $5,000. A first offense is subject to a maximum of six months of imprisonment, and a second or subsequent offense to a maximum of two years.

The bill addresses the law enforcement and prosecutorial concern that the current statute does not adequately address more serious instances of nonpayment of support obligations. For such offenses a maximum term of imprisonment of just six months does not meet the sentencing goals of punishment and deterrence. Aggravated offenses, such as those involving parents who move from state to state to evade child support payments, require more severe penalties.

Section 2 of the bill creates two new categories of felony offenses, subject to a two-year maximum prison term. These are: (1) traveling in interstate or foreign commerce with the intent to evade a support obligation if the obligation has remained unpaid for a period longer than one year or is greater than $5,000; and (2) willfully failing to pay a support obligation regarding a child residing in another state if the obligation has remained unpaid for a period longer than two years or is greater than $10,000. These offenses, proposed 18 U.S.C. 228(a) (2) and (3), indicate a level of culpability greater than that reflected by the current six-month maximum prison term for a first offense. The level of culpability demonstrated by offenders who commit the offenses described in these provisions is akin to that demonstrated by repeat offenders under current law, who are subject to a maximum two-year prison term.

Proposed section 228(b) of title 18, United States Code, states that the existence of a support obligation in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support

obligation for that period. Although ''ability to pay'' is not an element of the offense, a demonstration of the obligor's ability to pay contributes to a showing of willful failure to pay the known obligation. The presumption in favor of ability to pay is needed because proof that the obligor is earning or acquiring income or assets is difficult. Child support offenders are notorious for hiding assets and failing to document earnings. A presumption of ability to pay, based on the existence of a support obligation determined under state law, is useful in the jury's determination of whether the nonpayment was willful. An offender who lacks the ability to pay a support obligation due to legitimate, changed circumstances occurring after the issuance of a support order has state civil means available to reduce the support obligation and thereby avoid violation of the federal criminal statue in the first instance. In addition, the presumption of ability to pay set forth in the bill is rebuttable, a defendant can put forth evidence of his or her inability to pay.

The reference to mandatory restitution in proposed section 228(d) of title 18, United States Code, amends the current restitution requirement in section 228(c). The amendment conforms the restitution citation to the new mandatory restitution provision of federal law, 18 U.S.C. 3663A, enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996, P.L. 104–132, section 204. This change simply clarifies the applicability of that statute to the offense of failure to pay legal child support obligations.

Proposed subsection (e) clarifies that prosecutions for violations of this section may be brought either in the district where the child resided or the obligor resided during a period of nonpayment. Inclusion of this language is necessary in light of a recent case, *Murphy* v. *United States*, 934 F.Supp. 736 (W.D. Va. 1966), which held that a prosecution had been improperly brought in the Western District of Virginia, where the child resided, because the obligor was required, by court order, to send his child support payments to the state of Texas. Proposed subsection (e) is not meant to exclude other venue statutes, such as section 3237 of title 18, United States Code, which applies to offenses begun in one district and completed in another.

For all of the violations set forth in proposed subsection (a) of section 228, the government must show the existence of a determination regarding the support obligation, as under current law. Under proposed subsection (f)(3) the government must show, for example, that the support obligation is an amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living. Proposed subsection (f)(3), however, expands the scope of covered support obligations to include amounts determined under a court order or an order of an administrative process pursuant to the law of an Indian tribe. Subsection (f)(1) defines the term ''Indian tribe'' to mean an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian tribe pursuant to section 102 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a. The expanded definition permits enforcement of the statute for all children for whom child support was ordered by either a state or tribal court or through a state or tribal administrative process.

Proposed subsection (f)(2) of section 228 amends the definition of ''state,'' currently in subsection (d)(2), to clarify that prosecutions may be brought under this statute in a commonwealth, such as Puerto Rico. The current definition of ''state'' in section 228, which includes possessions and territories of the United States, does not expressly include commonwealths.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (S. 1371) was read the third time and passed, as follows:

S. 1371

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 ''Deadbeat Parents Punishment Act of 1997''.

SEC. 2. ESTABLISHMENT OF FELONY VIOLATIONS.

Section 228 of title 18, United States Code, is amended to read as follows:

''§ 228. Failure to pay legal child support obligations

''(a) OFFENSE.—Any person who—

''(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000;

''(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000; or

''(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than $10,000;

shall be punished as provided in subsection (c).

''(b) PRESUMPTION.—The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

''(c) PUNISHMENT.—The punishment for an offense under this section is—

''(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

''(2) in the case of an offense under paragraph (2) or (3) of subsection (a), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

''(d) MANDATORY RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

''(e) VENUE.—With respect to an offense under this section, an action may be inquired of and prosecuted in a district court of the United States for—

''(1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an 'obliger') failed to meet that support obligation;

''(2) the district in which the obliger resided during a period described in paragraph (1); or

''(3) any other district with jurisdiction otherwise provided for by law.

''(f) DEFINITIONS.—As used in this section—

''(1) the term 'Indian tribe' has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a);

''(2) the term 'State' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

''(3) the term 'support obligation' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.''.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE NOMINATIONS TO REMAIN IN STATUS QUO, WITH EXCEPTIONS

Mr. LOTT. Mr. President, I ask unanimous consent, as in executive session, that all nominations received in the Senate during the 105th Congress, 1st session, remain in status quo, notwithstanding the sine die adjournment of the Senate, with the following exceptions: Bill Lann Lee and Executive Calendar No. 370.

I further ask unanimous consent that all provisions of rule XXXI, paragraph 6, of the Standing Rules of the Senate remain in effect, notwithstanding the previous agreement.

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

UNANIMOUS-CONSENT AGREEMENT—H.J. RES. 106

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate receives House Joint Resolution 106, the continuing resolution, that it be considered read three times and passed, and that the motion to reconsider be laid upon the table.

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

ADOPTION AND SAFE FAMILIES ACT OF 1997

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 867) to promote the adoption of children in foster care.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

Mr. DEWINE. Mr. President, H.R. 867, the Adoption and Safe Families Act of 1997, is an extremely important piece of legislation. Let me begin by thanking Senators CRAIG, CHAFEE, ROCKEFELLER, JEFFORDS, COATS, GRASSLEY, MOYNIHAN, LANDRIEU, Chairman ROTH, and Senator LOTT, the majority leader, who has made this bill a priority. I thank all of them and I thank their staffs for all the hard work they have done. I also want to thank our distinguished House colleagues Representatives DAVE CAMP and BARBARA KENNELLY, as well as Chairman SHAW, and their staffs, for their hard work in moving the bill through the House of Representatives.

This is a significant bill for a number of reasons.

It will require reasonable efforts to be made to find adoptive homes for children.

It requires concurrent case planning, which will reduce the amount of time that a child has to wait to be adopted. It would do this by permitting States to develop an alternative permanency plan in case a child's reunification with his family doesn't work out.

The bill shortens the time line for children in foster care.

And it reduces interstate geographic barriers to adoption.

But there is one element of this bill that is especially important—a provision I have been working to enact for over 2 years now. This one provision will save the lives of many children—and ensure that many others get to live in safe, loving, and permanent adoptive homes.

My staff and I have been involved in the discussion, drafting, negotiation, and adoption of just about every provision in this bill. But I have been working for the passage of this one particular provision for a very long time—and I believe it merits extended discussion in detail.

This provision is a clarification of the so-called reasonable efforts law, that was first passed in 1980. I introduced this provision as S. 1974 in the 104th Congress, and again as S. 178 in the 105th Congress.

I have given at least nine speeches on the floor discussing the need for this legislation; chaired one hearing on it; and testified at several others.

Anyone who is seeking to understand the need for this legislation—and our legislative purpose in passing this bill today—would do well to review my remarks in the RECORD on those occasions. I will detail—in these remarks today—both the dates of these speeches, and their page citations in the RECORD for easy reference.

On May 23, 1996, I held my first press conference to call for a change in the reasonable efforts law.

On June 4, 1996, I discussed this problem here on the Senate floor. That speech will be found in the RECORD at page S5710.

On June 27, 1996, I testified before our colleagues over in the House Ways and Means Subcommittee on Human Resources, at a hearing on how P.L. 96–272, the Adoption Assistance and Child Welfare Act is a barrier to adoption.

On July 18, 1996, I introduced S. 1974, a bill to clarify what Congress means by reasonable efforts. I offered the bill the very same day as an amendment to the Senate's welfare reform legislation, but withdrew the amendment because it was not germane. Nevertheless, I continued to talk about this problem, in an effort to create momentum to bring this kind of legislation to the floor.

My remarks on that occasion will be found at page S8142 of the RECORD.

On November 20, 1996, we held a hearing in the Labor and Human Resources Subcommittee on improving the well-being of abused and neglected children.

When the new Congress reconvened in January of this year, I reintroduced my bill to clarify reasonable efforts, as S. 178. It was my very first order of business in the new Congress.

On January 21, 1997, I spoke about this on the Senate floor. That can be found in the CONGRESSIONAL RECORD, page S551.

On February 14, President Clinton endorsed my reasonable efforts bill.

On February 24, I spoke about this on the Senate floor—page S1431.

On March 20, Senators CHAFEE and ROCKEFELLER introduced another bill to help us build momentum. That bill was titled S. 511, the Safe Adoptions and Family Environments Act.

On April 8, I testified again in the House Ways and Means Committee on this topic.

On April 30, H.R. 867, the Adoption Promotion Act of 1997, overwhelmingly passed the House of Representatives by a vote of 416 to 5. This bill, sponsored by Representatives DAVE CAMP and BARBARA KENNELLY, included my language to clarify reasonable efforts. I talked about that bill, on the same day that it passed in the House, on the floor of the Senate. Those remarks can be found at S3841.

Mr. President, I addressed this issue again on the Senate floor on May 1. Those remarks can be found at page S3898, and yet again, on May 5, I spoke about the issue, and those remarks can be found at S3947.

On May 21, I testified on this issue at a hearing in the Senate Finance Committee.

On October 1, I addressed this issue on the Senate floor again. Those remarks can be found at page S10262. On October 8, I testified yet again in a hearing before the Finance Committee on the Promotion of Adoption, Safety and Support of Abused and Neglected Children Act, the PASS Act, as it is commonly known.

Finally, on October 24 of this year, I addressed this issue again on the Senate floor, and those remarks can be found on page S11175.

The legislation that we will take up in a moment and that I hope we pass today is the culmination of that effort. I have taken the time of the Senate today to outline that history, as I stated a moment ago, because I want to make it very clear what the legislative history is and what the intent was behind that provision of the bill.

Let me turn now to the need for this provision.

Let me explain why this provision was the focus of so much attention and why we need this provision.

We need it, Mr. President, because of an unintended consequence of a bill that was passed by this Congress in 1980. The Adoption Assistance and Child Welfare Act of 1980 included a provision saying that for a State to be eligible for Federal funds for foster care spending, that State must have a child welfare services plan approved by the Secretary of Health and Human Services and that plan must be in effect.

The State plan must provide, and I quote now from the 1980 law, it must provide ''that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home and (B) to make it possible for the child to return to his home.''

Mr. President, over the last 17 years, since this law went into effect and since this provision became part of our Federal law, this law, tragically, has often been seriously misinterpreted by those responsible for administering our foster care system.

Too often, reasonable efforts, as outlined in the statute, have come to mean unreasonable efforts. It has come to mean efforts to reunite families which are families in name only. I am speaking now of dangerous, abusive adults who represent a threat to the health and safety and even the lives of these children.

This law has been misinterpreted in such a way that no matter what the particular circumstances of a household may be, it is argued that the State must make reasonable efforts to keep that family together and to put it back together if it falls apart. I have traveled across the State of Ohio, talking with child service representatives, with judges, other social welfare professionals who have told me about this problem. I have held hearings with experts from other parts of the United States, and we have discovered that this is a truly national problem.

There can be no doubt that this problem did, in fact, arise because of the 1980 law, and it arose because this 1980 law was and has been for 17 years misinterpreted. Clearly, the Congress of the United States in 1980 did not intend that children should be forced back into the custody of adults who are known to be dangerous and known to be abusive.

My purpose in making these comments today is to make absolutely certain that this legislation that I believe we are about to pass, H.R. 867, is not misinterpreted. My purpose today is to make sure the bill we are about to pass is not misinterpreted. I intend, therefore, to explain in some detail our purpose in passing this legislation.

Let me begin, if I can, Mr. President, by reading clause A of H.R. 867, and this is the bill we are about to take up.

Clause A of this bill says:

> (A) in determining reasonable efforts to be made with respect to a child, as described in this section, and in making such reasonable efforts, the child's health and safety shall be the paramount concern.

Let me read it again. Clause A of H.R. 867 that we are about to take up says:

> In determining reasonable efforts to be made with respect to a child, as described in this section, and in making such reasonable

efforts, the child's health and safety shall be the paramount concern.

The purpose of clause A, Mr. President, is to make it clear to everyone involved in caring for our young people, not just judges, but also caseworkers, prosecutors, magistrates, court-appointed attorneys, and child advocates—all of them—that reasonable efforts to reunify families must be governed by one overriding principle, and that overriding principle is that the health and safety of the child must always, always, always come first.

In determining what efforts are required, in determining what efforts are reasonable, we must give priority to this clause.

Second, clause A also makes clear that there are some cases in which reasonable efforts do not need to be made to reunify children with dangerous adults. In some cases, no efforts are reasonable efforts. In some cases, any efforts are unreasonable efforts.

All the rest of this section of this bill, which will become law, must be read in the light of clause A which I just read. Clause A governs the law of reasonable efforts. Clause A defines, once and for all, the overriding principle, that the health and safety of the child must always, always, always come first.

This bill that we are about to take up also includes a list of certain very specific cases in which reasonable efforts are not required, very specific cases laid out in the statute. They include the crimes set forth already in the Child Abuse Prevention and Treatment Act, or CAPTA. They also include aggravated circumstances that will have to be defined by each individual State, and they include also cases in which the parental rights have been involuntarily terminated as to the sibling of the child in question.

Mr. President, let me point out now very carefully so there is no risk of misinterpretation on this floor, this list that I have just read is not meant to be an exclusive list. The authors of this legislation do not—do not—intend these specified items to constitute an exclusive definition of which cases do not require reasonable efforts to be made.

Rather, these are examples—these are just examples—of the kind of adult behavior that makes it unnecessary, that makes it unwise, makes it simply wrong for the Government to make continued efforts to send children back to their care. This is not meant to be an exclusive list. We make this clear in the text of the bill.

Let me read the rule of construction from the bill H.R. 867:

(c) Rule of Construction—Nothing in this part shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in section 471(a)(15)(D).

''Nothing in this part shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in section 471(a)(15)(D).''

This leaves absolutely no room for doubt. Whether the case comes under the previously listed examples or not, the health and safety of the child must—must—come first.

The passage of this bill will cause a momentous change in how we look out for the interests of the most vulnerable children in this country. I thank a number of individuals who have helped us build a consensus for making this change. I must say that is what had to happen before we could pass this bill. We had to get a consensus, not just in the Senate, not just in the House, but, frankly, among caring people across this country. It had to become a public issue.

Let me thank some of the people who helped change that and build that consensus.

Dr. Richard Gelles, whose pathbreaking book called ''The Book of David,'' did so much to educate me and the rest of America on this issue. He deserves a great deal of thanks.

Peter Digre, Director of the department of children and family services of the county of Los Angeles, was also instrumental and testified about the need for our bill.

Mrs. Sharon Aulton, the grandmother of Christina Lambert and Natalie Aulton, two children who lost their lives to child abuse. I think Mrs. Aulton was very brave when she came before us to share her heartbreaking story. She helped us bring the point home really as no one else could about the need for change.

Mary McGrory of the Washington Post, a tireless advocate for children, who wrote at least two very compelling columns about the need for change in our reasonable efforts law.

Dave Thomas of Ohio, a man who has devoted an incredible amount of effort to promote adoption as a way to provide a better future for America's endangered children.

All the caseworkers, the CASA volunteers, prosecutors and other concerned citizens throughout Ohio and across this country who took the time to help me and my staff learn about this issue and craft the beginnings of a solution.

Mr. President, speaking of my staff, I also thank my senior counsel, Karla Carpenter, who has worked so tirelessly on behalf of getting this bill passed. She has spent literally thousands of hours, both in the State of Ohio and here in Washington, working on this triumph today. The bill that is about to be passed today is a great credit to her fine work.

I thank all these individuals. They all deserve the gratitude of anyone who cares about our children.

Mr. President, you will notice and Members of the Senate will notice I said a moment ago we have crafted the beginnings of a solution. It is that, it is the beginnings. It is, I think, precisely what we have started today, the beginnings of a solution to this problem.

The sad truth is, some children will continue to spend too much time waiting to be adopted. But without this bill, more children would have to wait, and they would have to wait longer. It is also true, Mr. President, that it is a tragic fact that children will continue to die in this country of child abuse. But without this bill, more children would have died.

Mr. President, we should make no mistake about the challenges ahead. We stand only at the very beginning of a long struggle to save America's children. I do not think it is enough, as we do in this bill, to get more children adopted, although we are doing that, nor it is enough to make sure that fewer children are killed.

It is our responsibility as a Congress, as citizens, as a people to do all we can to build an America, to build a country where children do not die of child abuse. I see an America and I want America, Mr. President, where every child has the opportunity to live in a safe, a stable, a loving, and a permanent home.

That is why, Mr. President, I intend to return to this issue next year. There is a great deal we can still do. There is a great deal we must do, and there is a great deal we must do soon.

We need, for example, to provide better training for caseworkers who look out for our children. We need to make sure that they have smaller case loads. We need to do more to emphasize adoption as the solution and provide greater resources and more emphasis on adoption so we can increase adoptions.

We need, Mr. President, to provide better training for the courts that deal with our children. We need to make sure that the families who are in trouble, but who can be saved, do get help, and that they get good help, and that they get it before it is too late.

That is quite an extensive agenda, Mr. President, for this country, but I believe it is necessary, and I believe we are up to it.

If we want to continue to think of ourselves as a good country, we cannot afford to continue allowing so many of our children to be abused and so many to be killed, nor, Mr. President, can we allow so many of our children to languish in an unadoptable situation where they are sometimes shuttled, many times from home to home to home, without getting what every child deserves, needs, and should have—and that is a loving home and someone to love that child.

I think we can and we must do better. With the bill we pass today, we say plainly and simply that there are cases in which reasonable efforts are not required to reunite innocent children with dangerous adults. With the bill we pass today, we will truly save lives.

This historic change took a great deal of effort and consensus building. It is a good day's work and a good start

at fixing America's No. 1 challenge—protecting and rescuing our young people.

Mr. President, I thank the Chair and thank the Members of the Senate.

I yield the floor.

Mr. ROCKEFELLER. Mr. President, I am proud and pleased to be part of the successful effort to pass the Adoption and Safe Families Act of 1997. Having worked to achieve the objectives of this bill for many years, I am very grateful to everyone involved in reaching today's result—the final passage of a significant bill that will help children and families in true need across the country for many years to come.

This legislation is the culmination of extensive bipartisan negotiations between the House and Senate over the course of this year to enact the most effective ways to ensure the health, safety, and stability of America's most vulnerable population: abused and neglected children. The product of intense debate and sometimes difficult concessions on all sides, this bill has emerged as a positive first step in fixing our Nation's broken child welfare system. At the same time this process has demonstrated the undeniable benefits of bipartisan cooperation and compromise, it has also highlighted the mountain of work still left to be done on behalf of abused and neglected children. In that regard, I hope the Adoption and Safe Families Act of 1997 will be a cornerstone for future efforts on behalf of abused and neglected children, especially those children whose special needs present formidable barriers to their safe adoptive placement.

The Adoption and Safe Families Act of 1997 is most significant in its focus on moving children out of foster care and into adoptive and other positive, permanent placements. If American child welfare policy does not succeed in providing a real sense of belonging and identity to children living in the foster care system, we will be denying these young people the fundamental supports they need to become satisfied and caring adults. It would be a tragedy to write these children off as a lost generation, just another group of children from broken homes and a broken system who just didn't get enough support to make a difference.

In my role as chairman of the National Commission on Children, I had the unique opportunity to travel across the country and speak with hundreds of children, parents, and caregivers about how to effectively address their most basic needs and about how the Government can help to foster their most fundamental aspirations. Because of that commission, I spent a day in LA juvenile court and saw the system at its worst, overwhelmed and ineffectively serving children. But I also met a dedicated advocate, Nancy Daly, and she introduced me to the Independent Living Program and other efforts that can work to serve children. We've stayed in touch, working on these issues together ever since.

At the heart of the recent debate about the best policy for adoption and child welfare, dozens of complex questions have been raised about how Federal taxpayer dollars should be spent and who is worthy of receiving them. As we struggle with these difficult issues, which often pit social against fiscal responsibility, I keep returning to the same fundamental lesson I have learned from the families with whom I have spoken over the years: If we cannot build social policy that effectively protects our children, we have failed to do our job as a government and a society.

I would like to take this opportunity to thank my friends and colleagues, JOHN CHAFEE and LARRY CRAIG for their unflagging leadership in bringing the legislation this far. My partnership with Senator CHAFEE on children's issues is one of the most fulfilling aspects of my legislative work, and I thank him for his leadership. Senator CRAIG also provided tremendous help and fortitude in achieving the final consensus and action needed to produce results. There have been a series of premature reports about the collapse of negotiations. Without their efforts and the rest of our bipartisan coalition, the naysayers might have triumphed over the needs of almost a half a million children in foster care.

I would also like to share my sincere appreciation with the other Members of the Senate adoption working group who have worked so hard to create a solid bipartisan package: Senators JEFFORDS, DEWINE, COATS, BOND, LANDRIEU, LEVIN, MOYNIHAN, KERREY, and DORGAN. I would also like to acknowledge the work of Finance chairman, Senator ROTH, who has made it possible for the Adoption and Safe Families Act of 1997 to become a reality.

I also want to pay special tribute to the First Lady, Mrs. Clinton, for her longstanding and intense dedication to the goals pursued in this legislation. She has told me of the public's deep concern for children who are barred from becoming part of permanent, loving families. Her interest and encouragement have been invaluable to me and to others involved in this effort, and I know she will help ensure the administration's commitment to turning this new law into reality.

The Adoption and Safe Families Act of 1997 will fundamentally shift the focus of the foster care system by insisting that health and safety should be the paramount considerations when a State makes any decision concerning the well-being of an abused and neglected child. This legislation is designed to move children out of foster care and into adoptive and other permanent homes more quickly and more safely than ever before. For the first time, this legislation requires States to use reasonable efforts to move eligible foster children toward adoption by introducing a new fast-track provision for children who have been subjected to severe abuse and other crimes by their parents. In such severe cases, this bill would require that a permanency hearing be held within 30 days. In the case of an abandoned infant where reasonable efforts have been waived to reunite the family, that child could be moved into a safe and permanent home in a month's time.

While this legislation appropriately preserves current Federal requirements to reunify families when that is best for the child, it does not require the States to use reasonable efforts to reunify families that have been irreparably broken by abandonment, torture, physical abuse, murder, manslaughter, and sexual assault. In cases where children should not be reunited with their biological families, the Adoption and Safe Families Act of 1997 requires that the States use the same reasonable efforts to move children toward adoption or another permanent placement consistent with a well thought-out and well-mentioned permanency plan.

In addition, the act encourages adoptions by rewarding States that increase adoptions with bonuses for foster care and special-needs children who are placed in adoptive homes. Most significantly, the legislation takes the essential first step of ensuring ongoing health coverage for all special-needs children who are adopted. Without this essential health coverage, many families who want to adopt children with a range of physical and mental health issues, would be unable to do so. I am delighted to see that medical coverage, which has always been a vital part of any program that substantively helps children, is also a key component of this bipartisan package.

Ensuring safety for abused and neglected children is another significant goal of this legislation. The Adoption and Safe Families Act of 1997 seeks to accomplish this goal by ensuring that the safety of the child is considered at every stage of the child's case plan and review process. Moreover, the bill requires criminal background checks for all potential foster and adoptive parents.

The legislation also substantially cuts the time a child must wait to be legally available for adoption into a permanent home by requiring States to file a petition for termination of parental rights for a child who has been waiting too long in a foster care placement. At the same time that it speeds adoptions where appropriate, it also gives States the discretion to choose not to initiate legal proceedings when a child is safely placed with a relative, where there is a compelling reason not to go forward, or where appropriate services have not been provided in accordance with the child's permanency plan.

At the same time that this bill imposes tough but effective measures to decrease a child's unnecessary wait in foster care, it reauthorizes and provides $60 million in increased funding

for community-based family support and court improvements over the next 3 years, collectively referred to as the ''Promoting Safe and Stable Families Program.'' As part of a balanced bipartisan package, these programs will support a range of fundamental State services to help children and families and to provide necessary services to adoptive families. This legislation also takes care to assure that children who have gone through adoptions that have been disrupted or whose adoptive parents die will remain eligible for Federal support.

For West Virginia, and every State, this legislation means positive change. Our State currently has about 3,000 children in foster care. Under this new legislation, the emphasis will shift the primary focus to their health and safety and to finding them a stable, permanent home. Throughout these debates, I have listened to West Virginia leaders, including Chief Justice Margaret Workman, who testified before the Senate Finance Committee, and Joan Ohl, our West Virginia Secretary of Health and Human Resources. I have visited agencies in my State that provide the full range of services from family supports to adoption, and I have been in touch with social workers and families. I know that the provisions of this legislation will challenge my State, but I am equally confident that its leaders are ready to make the necessary changes to do more for the thousands of children in West Virginia who are depending upon us.

I am pleased to have been a part of this tremendous effort on behalf of abused and neglected children, and am hopeful that the Adoption and Safe Families Act of 1997 will bring about real and positive improvements in the lives of the half a million American children living in foster care.

Mr. GRASSLEY. Mr. President, since the Senator from Indiana is in the chair, I want to compliment Senator COATS for his involvement in this legislation. He had a very important role in this adoption and foster care legislation. I know the bill contains key parts in which he was interested. Senator COATS was very much a part of this being a successful product.

Confronting the issues for children in foster care, is uncomfortable, almost painful. But the foster care system is in crisis and children are suffering. We are compelled to confront these problems.

Foster care is a complicated entitlement program. While the issues are complex, so are the solutions. Today we are getting what we are paying for. It is not such a good situation, because what we are getting is long-term foster care—not permanency for these kids.

Foster care was set up to be a temporary emergency situation for kids. The foster care system now is a lifestyle for so many of them. The Federal Government continues to pour billions of dollars into a system that lacks genuine accountability. Instead of encouraging States to increase adoptions, the current system rewards long-term foster care arrangements.

Jennifer Toth described in her book ''Orphans of the Living,'' that children are ''consigned to the substitute child care system, a chaotic prison-like system intended to raise children whose parents and relatives cannot or will not care for them.'' She also wrote, ''The children in substitute child care today have all suffered trauma. They are all at greater risk than the general child population. Yet they are given less care, when they need more care.''

In Iowa, we have an organization called the Iowa Citizens Foster Care Review Board. They had a project of asking children in foster care and kids who were waiting to be adopted what they would like to tell us and the rest of the world. I could give lots of quotes, but these are examples from two of the children. ''Don't leave us in foster care so long.'' ''Check on us frequently while we're in foster care to ask us how we're doing and make sure we are safe.'' ''Tell us what's going on so we don't have to guess. Tell us how long it will be before we're adopted and why things seem to take so long.''

Children need to know that they have permanency, which means successful, healthy reunification with their birth families or permanency in an adoptive home.

A happy, permanent home life provides more than just a safe haven for kids; it gives kids confidence to grow into positive contributors to our society.

In the United States, at least a half million children are not living in permanent homes. While waiting for adoption or a safe return to their natural families, too many kids live out their entire childhoods in the foster care system.

Sadly, it often turns into an lonely, even futile transition. There is a short window of opportunity to do something about this with each and every kid, and each and every kid is a little different in this regard. If this window of opportunity is missed, a child can leave the foster care system a legal orphan—as an adult—having gone through their entire childhood never having permanency—never having a place that they can call home.

More needs to be done to dispel the myth that some kids are unadoptable. I have had people right here in Washington, DC, tell me that some kids are not adoptable. No kid is unadoptable. The only problem is that we just haven't found a home for them yet.

I support the Adoption and Safe Families Act because it takes the initial, necessary steps toward real reform. For the first time in 17 years, this body has strived to address the pain and suffering of these children. A cornerstone has been laid upon which future adjustments can be made and reforms can be built.

The bill will ensure health care coverage for adopted special needs children, break down geographic restrictions facing adoptive families, and encourage creative adoptive efforts and outreach.

One of the problems we as legislators have experienced has been that inadequate statistics are not kept; we don't have good enough statistics to understand how States are performing with their child care system. The data is too sparse and States can't tell us how many children they actually have in their care, or how long they have been there. When the situation is that way, Mr. President, some children can be lost in the system. So our bill is requiring States to report critical statistics. Children will be identified and their lives will be personalized to those responsible for them. The status quo will not be able to hide behind the lack of information excuse. We have run into that when dealing with this legislation.

Currently, the Federal Government does not require that States actively seek adoptive homes for all ''free-to-be-adopted'' children, who often are assigned to long-term foster care. This bill, however, compels States to make reasonable efforts to place a child in a permanent adoptive home. Long-term foster care should never be a solution for any kid.

In most States, children are being denied permanency because of the artificial barrier of geography. This bill will break down the geographic barriers to adoption—prohibiting discrimination against out-of-State adoptive families—allowing more children to find permanent families.

There is a mismatch between the location of children free to be adopted and families willing to adopt. Above all, these children need loving homes, and no State line should get in the way of their well-being.

The bill establishes for foster and pre-adoptive parents the right to be given notice of hearings and the right to testify on behalf of the children in their care. How could anyone ever want to leave these people out of the process?

These parents have been in charge of the children 24 hours a day, 7 days a week. They are the ones in the best position to know the problems that these children might have and can represent the children's concerns. It is an important change to make as we seek to better represent the children's best interests.

The Federal Government plays a significant role in child welfare by providing funds to States and attaching conditions to those funds. The single largest category of Federal expenditure under the child welfare programs is for maintaining low-income foster care children. To receive Federal funds, States must comply with the requirements of this bill, and States will be penalized for noncompliance. We are sick and tired of kids being kept in the foster care system because there is money that comes from the Federal Government for those kids. There is an

incentive—a monetary incentive—not to move these children toward permanency.

I am pleased with the provisions in this bill which emphasizes adoption promotion and support services in the Family Preservation and Support Services Act.

To help ensure that new adoptive families are healthy and stay together, the bill provides post-adoptive services and respite care. It is a proven approach.

In States where post-adoption services are offered, the number of adoptive families that have trouble staying together is significantly lower.

I congratulate the Members for their efforts on this issue and commend the authors of this monumental piece of legislation. One person that hasn't gotten much attention—and he played a very important role in this process—is Senator ROTH, the chairman of the Senate Finance Committee. He was instrumental in forging an agreement with members so that this bill could pass, as it will tonight. His guidance and insight were critical to the bill's success.

Today, we begin to dramatically change the culture surrounding adoption. We begin the education process. We begin by dismissing the dehumanizing myth surrounding special-needs children. These children deserve permanent homes, too. These children are precious, and all children in need of permanent homes are adoptable.

I have been impressed by the compassion of those who adopt these special children. They are gifted and they ought to inspire all of us to be more concerned about kids in need. We know that more families are willing to adopt children, including those with the most challenging of circumstances.

Let's build upon the cornerstone of this monumental bill. Even though we will have passed this legislation, some children will still remain hostages in an inefficient system. More reform is needed to help place more children in a safe, permanent home.

I am looking toward future years to do more in the following areas. People should know that CHUCK GRASSLEY, the Senator from Iowa, is not done with changes in foster care and adoption at the Federal level.

First, we need to dramatically limit the time a child can legally spend in foster care. The national average length of stay in foster care is 3 years. That is three birthdays, three Christmases, and that is going through the first, second, and third grades, without having a mom and dad.

Second, we need to remove financial incentives to keep children in foster care, and provide incentives for success, not just for attempts to adopt. Currently, the system pays the same rate per child per month without limitation. The Federal Government must pay for performance.

These children are the most vulnerable of all; their lives begin with abuse and neglect by their own parents and, for many, they experience systemic abuse by languishing in long-term foster care.

The Congressional Research Service stated, ''Children are vulnerable, and their well-being is affected by conditions beyond their control.'' But their well-being is not beyond our control. These children depend on sound Federal policy that promotes permanency. Together with those on the front lines, we can make this policy work.

Congress has said that long-term foster care should never be a solution for a child who needs a home. It takes the critical first steps toward complete reform of a broken-down system, and it lays the cornerstone for continued improvement on behalf of tens of thousand of children left in limbo each year in the foster care system.

Foster care is a poor parent. A loving, committed family is the best gift that we can give to any child.

I yield the floor.

Mr. CRAIG. Mr. President, with the Senate's vote today on ''The Adoption and Safe Families Act,'' we are sending the President a landmark reform of the nation's foster care system and a bill that will make an enormous difference in the lives of many children in America.

Every child deserves a safe, loving, permanent family. For a lot of us, it's inconceivable that this most basic need is out of reach for hundreds of thousands of children across the nation. Although we've tried to provide a safety net to protect children at risk of abuse or neglect, that safety net is failing all too many children. The problem does not lie with the vast majority of foster parents, relatives and caseworkers who work valiantly to provide the care needed by these children. Rather, the problem is the system itself, and incentives built into it. On one end, it's allowing children to slip back into abusive homes; on the other end, it's trapping them in what was supposed to be ''temporary'' foster care, instead of moving them into permanent homes.

The Adoption and Safe Families Act of 1997 will bring more children home—to safe, permanent homes—and it will bring them home faster. It will change the culture of foster care with a number of fundamental reforms:

Currently, to obtain federal funds, states are required to use ''reasonable efforts'' to keep families together. While that sounds like a goal we all can support, this requirement has resulted in states using extraordinary efforts to keep children in what may actually be abusive or unsafe situations. Tragically, it's the children who ultimately pay for mistakes when this happens—sometimes with their very lives.

Our bill will change this. It requires that the child's health and safety must be the paramount concerns in any decisions made by the state on behalf of that child. While the reforms in the bill respect the rights of others—such as birth parents, relatives, foster families and adoptive parents—it makes clear that the focus must always be on the child's health and safety.

In addition to this general rule, the bill provides that the ''reasonable efforts'' requirement does not apply where there are aggravated circumstances such as abandonment, torture, chronic abuse or sexual abuse. This is not a comprehensive list; we've tried to make clear that states have the power to suspend the requirement for other aggravated circumstances that jeopardize the health and safety of the child.

Mr. President, these critical reforms will help save the lives of children. That's probably the most important goal of the Adoption and Safe Families Act. But it's not the only goal; other reforms in the bill are aimed at encouraging adoption and helping to move children through the foster care system and into permanent, loving homes.

For instance, for the first time, steps will have to be taken to free a child for adoption or other permanent placement once the child has been in foster care for fifteen months or more. In cases of severe abuse, when ''reasonable efforts'' are not appropriate, this bill establishes a new expedited process, requiring a permanency planning hearing to be held within 30 days. For the first time, states will be required to use ''reasonable efforts'' to place a child for adoption, if returning the child to the family is not an option. For the first time, those efforts must be documented.

We were particularly concerned about helping make adoption more likely for foster children with ''special needs.'' These are children who, by definition, are hard to place, perhaps because they require special medical help or mental health services, or the like. This bill requires health insurance coverage for children with special needs, which will make it more possible for families of all incomes to give these children a home.

This bill also provides states with financial rewards based on their success in increasing adoptions. An even higher reward is provided for increasing the adoptions of special needs children. The bill authorizes the Department of Health and Human Services to provide technical assistance to states and localities to promote adoption of foster children. We've also highlighted adoption promotion and support as services funded by the Family Preservation Program, which we have reauthorized for three years and renamed the ''Promoting Adoptive, Safe and Stable Families'' program.

We also attempted to address what many in the field have told us is a major hindrance to adoption: geographic barriers. It's my understanding that states are working independently to resolve this problem. Our bill gives them an additional push toward resolution, by providing that states risk losing their federal payments if they deny

or delay the placement of a child when an approved family is available outside their jurisdiction. We've also required a study and report to Congress on interjurisdictional adoption issues, so that we can take additional actions in the future in this area, if necessary.

This bill makes a number of system reforms aimed both at helping to advance our goals and providing a foundation for additional reforms in the future.

For instance, we're requiring the Secretary of Health and Human Services to work with state and local officials, child advocates and others in developing performance measures and publishing a report evaluating the effectiveness of our child welfare programs. This bill also requires HHS to develop and recommend to Congress a system for basing federal assistance payments on performance. It allows child welfare agencies to use the Federal Parent Locator Service to assist in locating absent parents. It allows agencies to use concurrent planning—that is, providing services to reunite or preserve the family while simultaneously recruiting adoptive parents, so that if the family cannot be preserved or reunited, the child will not have to wait such a long time before moving into a permanent home.

Before concluding, let me acknowledge the hard work of a number of members in both the House and the Senate, without which we wouldn't have a bill today. Although we may have started with fundamentally different views as to how best to change the system, we were united—and driven to resolve our differences—by the strong belief that reform is urgently needed now. I am pleased to have had a part in the bipartisan Senate coalition that worked and re-worked this legislation: Senator DEWINE, Senator CHAFEE, Senator ROCKEFELLER, Senator MOYNIHAN, Senator JEFFORDS, Senator COATS, Senator BOND, Senator LEVIN, Senator NICKLES, and Senator GRASSLEY. Special thanks must go to Chairman ROTH of the Senate Finance Committee, and his staff, who helped navigate the Senate bill to the floor and through the House. The Senate coalition appreciated having excellent technical assistance from Karen Spar of the Congressional Research Service. I'd like to thank the other cosponsors of the Senate PASS Act for their support: Senator DORGAN, Senator LANDRIEU, Senator JOHNSON, Senator KERREY and Senator MOSELEY-BRAUN. I also appreciate the efforts on the House side, led by Congressmen CAMP and KENNELLY, and Chairman SHAW.

Mr. President, these reforms will save lives and help move children out of foster care, faster, and into safe, permanent, loving homes. It's the hope of all who support this legislation that President Clinton will sign it into law before the end of November—which, appropriately enough, is National Adoption Month. Let's bring these children home.

Mr. DOMENICI. Mr. President, I would like to thank Senators ROTH, CHAFEE, CRAIG, and ROCKEFELLER for bringing this foster care and adoption assistance bill to the floor.

This bill contains a number of long overdue programmatic changes to strengthen the foster care system.

In addition, the bill provides more funds to reward states that increase adoptions. These adoptions will preclude children from having long, or even worse, permanent stays in state foster care systems.

To achieve this additional funding, the bill contains a discretionary spending cap adjustment of $20 million per year for the years 1999 to 2002.

One could argue that this cap adjustment would result in an increase in the deficit. However, the Congressional Budget Office estimates that spending from this incentive payment will reduce mandatory foster care spending by $25 million over the next 5 years.

The bill also contains additional mandatory spending for family preservation services. The Family Preservation Program attempts to provide intensive services to families at risk of having children removed from the home and put into foster care.

This additional money would raise total funding for family preservation services to $1.435 billion over the next 5 years or $80 million above the President's request.

I want to raise a couple concerns. First, there are a number of minor Budget Act violations, like the cap adjustment.

Second, and of greater concern, is an offset for the additional Family Preservation spending. The offset was conceived of and added at the last minute. I do not believe the policy was thought out and the effects certainly are not well known to this body.

The offset would tap into the Temporary Assistance for Needy Families [TANF] contingency fund and could unfairly target small, poor states with volatile unemployment rates. Moreover, the offset would, perversely, take away funds from states when they are needed the most.

The contingency fund was a vital part of making welfare reform work by increasing funds to states experiencing increased unemployment or rising food stamp caseloads.

The offset allows states to receive a contingency grant payment in one year, but then require that state to pay back at least a portion in the next year.

The repayment would be prorated among the states that qualify in any given year. For example if five states qualify for payments in the year 2000, those states would split the $16 million required repayment in the year 2001.

However, the risk is that one state or a handful of very small states will qualify for contingency grant payments and will be forced to pay back the full amount.

This risk is justified. In 1997 only one state, New Mexico, qualified for contingency payments. Had this bill been in effect this year, New Mexico would have had to pay back almost all of their contingency grant.

The economy in New Mexico is currently doing better, unemployment is down to 6.4 percent and the state does not currently qualify for the contingency fund. But my state and many other similar states are always vulnerable. One plant closing can mean a substantial increase in unemployment and need.

While $16 million with respect to the Federal Budget does not sound like a lot to many people, this is a substantial sum to New Mexico. $16 million represents over ten percent of New Mexico's entire TANF grant.

In fact this offset would represent over a ten percent reduction in the TANF grant for 31 states and a cut of over fifty percent for 6 states.

Further this grant reduction would come at time when a state needs it the most, when state coffers are under pressure from an increase in unemployment.

I understand that this bill enjoys broad support and that the bill on net contains important, necessary changes. I do not intend to hold it up today.

I wish to enter into a colloquy with Senator ROTH to formalize my understanding that next year the Finance Committee will address this problem and restore full funding to the contingency grant.

Mr. DOMENICI. Mr. President, I would like to congratulate Senator ROTH for bringing this foster care and adoption assistance bill to the floor. The bill contains a number of long overdue changes to the foster care system. However, the bill contains an offset for new spending that would take money out of the temporary assistance for needy families [TANF] contingency fund. It is my understanding that only those states that qualify for contingency payments would be affected by this offset.

Mr. ROTH. Yes. That is true. States that qualify for payments in one year would pay back a prorated share in the next.

Mr. DOMENICI. I am concerned that this repayment would target states that need the funding most: states with rising unemployment.

Mr. ROTH. The Finance Committee is aware of that potential situation. We will monitor the situation and work with you and the Administration to make adjustments in the operation of the contingency fund if necessary.

Mr. DOMENICI. I thank the Senator very much. I look forward to an equitable resolution in this matter.

Mr. JEFFORDS. Mr. President, the bill before us is a remarkable achievement. It not only represents a true bipartisan effort to change a system that too often becomes mired in bureaucracy, but it also represents a significant change in the way that system works and what its goals should be. I am very proud to have played a part in

negotiating a good bill, and I want to commend, in particular, my colleagues Senator CHAFEE, Senator ROCKEFELLER, Senator COATS, and Senator CRAIG for their hard work on this bill. I also want to thank Senator ROTH for his efforts in negotiating this legislation with our House counterparts.

This legislation will lead to an improvement in the services we provide to nearly 100,000 children in the foster care system who are unable to return to their biological families because of threats to their health and safety. This bill guarantee as never before that their health and safety will be the ''paramount concern'' at every step of their stay in foster care, including in the development of their permanency plan. It also assures that every effort will be made to move children into safe, permanent homes as quickly as possible.

Why is this important? Too often, children languish in foster care for years—years—before they find a safe, loving family. Many children, especially those with special needs, often never are placed with an adoptive family. Those children grow up in the foster care system, never knowing the security and warmth that a loving family provides.

To help ensure that the child's safety remains the paramount concern, this bill changes the focus on the way states define the term ''reasonable effort.'' Too often, states have placed too much emphasis on returning a child to his or her biological family, even when doing so may mean endangering the child. This bill provides that states should still make every attempt to keep families intact, but—and this is a significant change in the current law—it also makes it very clear that there are a number of circumstances in which a state does NOT have to make a reasonable effort to reunite a child with the biological family. For example, if a parent has been found to have murdered another child in the family, or has subjected a child to chronic abuse, it is unreasonable—and irrational—to insist that the state return that child to the family. That seems like common sense, but, as we all know, the law doesn't always lead to common sense conclusion. This legislation clarifies this.

I also want to point out that this bill requires, for the first time, states to implement procedures by which they will perform criminal background checks on potential foster and adoptive parents. I think the average citizen would be very surprised to learn that we do not currently require states to do such checks. While some states check prospective adoptive parents for evidence of past criminal activity which might indicate that it would be dangerous to place a child in their care, most states do not. This bill would change that situation. The original House bill did not contain this provision, and I want to commend the Senate conferees, especially Senator COATS, for insisting the Senate's language remain intact. It makes good sense.

Another hard-fought provision that the Senate can be very proud of provides that when a special needs child is adopted—that is, one who is hard to place because of a physical or mental disability—then the state must ensure that the child will have health insurance coverage. Too many of these special needs children have found that when they are adopted, their access to health care disappears and the adoptive family must shoulder the entire financial responsibility for the child. That can create a huge disincentive for an otherwise loving family to adopt a child with a physical disability. Our bill says that when a child is adopted, he or she will have the health insurance needed to meet his or her needs. That is a significant step, and, again, I am pleased the Senate remained steadfast in its insistence on this provision.

Mr.. President, this bill is a victory for children and adoptive parents nationwide. There are more than 100,000 children awaiting adoption or other permanent placements, and this bill is a good step toward moving many of them into safe, loving, permanent homes.

Again, I extend my deepest thanks to Senators CHAFEE, ROCKEFELLER, CRAIG, COATS, DEWINE, KERREY, and ROTH for their hard work on this bill. We have been working to come to this agreement for months, and this bill is the hard-fought result of those efforts. I urge all my colleagues to give their support to this legislation.

Mr. MOYNIHAN. Mr. President, I rise today in support of H.R. 867, the Adoption and Safe Families Act of 1997. This legislation promotes adoption and makes important reforms in foster care. It includes provisions drawn from two bills I co-sponsored earlier this year, S. 511 [the ''SAFE'' Act] and S. 1195 [the ''PASS'' Act]. We have been able to work out bipartisan legislation with two goals we all share—ensuring the safety of children in the child welfare system, and finding permanent homes for as many children in foster care as possible.

Children in the child welfare system, victims of abuse and neglect, are among the most vulnerable in our society. Just this week, in my own state, we learned of another tragic death, that of little Sabrina Green. Sabrina, nine years old, lived in the Bronx. After both her mother and her latest foster mother died, Sabrina went to live with her oldest sister, Yvette Green. After what appears to have been months of abuse—such as burning Sabrina's hand over a stove as punishment for taking food out of the refrigerator—she was found beaten to death. Her sister and her sister's boyfriend have been accused of this crime.

We owe it to these abused and neglected children to do our best on their behalf. And I am encouraged that a group of our colleagues has worked together—on a bipartisan basis—to develop this legislation. I thank Senators CHAFEE, ROCKEFELLER, ROTH, CRAIG, JEFFORDS, KERREY, COATS, DEWINE, LANDRIEU, and the others who have played important roles in this effort.

This bill clarifies that the health and safety of the child are to be the ''paramount'' concern when making the difficult decisions involved in the child welfare system and it contains several other ''safety first'' provisions, such as requiring criminal records checks for prospective adoptive and foster parents. The bill accelerates the process for determining the permanent placement for a child in foster care, so that children do not spend years bouncing among foster homes. H.R. 867 also promotes adoption by providing states with financial incentives to get children in foster care adopted, and by breaking down health insurance and geographic barriers to adoption.

This legislation is an important step forward in our efforts to help abused and neglected children. I am proud to support it.

Mr. LOTT. I do want to say, Mr. President, for the RECORD, and I note Senator DASCHLE is also very interested in this, that I am very pleased we were able to get this legislation through the whole process. There was a lot of work by Senators on both sides of the aisle. I believe this will be one of the two or three important bills we passed this year, because it will help with foster care and adoption. I commend all Senators.

Mr. DASCHLE. Mr. President, I concur in what the majority leader just said. This is an important issue to the administration. They called again this afternoon to confirm it was going to pass.

Mr. LOTT. Mr. President, I move that the Senate concur in the amendment of the House to the Senate amendment.

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

The motion was agreed to.

AUTHORITY TO WAIVE CERTAIN ENROLLMENT REQUIREMENTS

Mr. LOTT. Mr. President, I call up House Joint Resolution 103, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 103) waiving certain enrollment requirements with respect to certain specified bills of the 105th Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be considered agreed to, and that the motion to reconsider be laid upon the table.

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

The joint resolution (H.J. Res. 103) was agreed to.

AUTHORITY TO MAKE CERTAIN APPOINTMENTS AFTER SINE DIE ADJOURNMENT

Mr. LOTT. Mr. President, I now call up Senate Resolution 156, which is at the desk.

The legislative clerk read as follows:

A resolution (S. Res. 156) authorizing the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders to make certain appointments after sine die adjournment.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, and that the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 156) was agreed to, as follows:

S. RES. 156

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT ON THE STATE OF THE UNION

Mr. LOTT. Mr. President, I now call up House Concurrent Resolution 194 which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 194) providing for a joint session of Congress to receive a message from the President on the State of the Union.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 194) was agreed to.

PROVIDING FOR THE CONVENING OF THE 2d SESSION OF THE 105th CONGRESS

Mr. LOTT. Mr. President, I now call up Senate joint resolution 39, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 39) to provide for the convening of the second session of the One Hundred Fifth Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the joint resolution be considered read the third time and passed, and the motion to reconsider be laid upon the table.

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

The joint resolution (S.J. Res. 39) considered read the third time and passed, as follows:

S.J. RES. 39

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the One Hundred Fifth Congress shall begin at noon on Tuesday, January 27, 1998.

SEC. 2. Prior to the convening of the second regular session of the One Hundred Fifth Congress on January 27, 1998, as provided in the first section of this joint resolution, Congress shall reassemble at noon on the second day after its Members are notified in accordance with section 3 of this joint resolution.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to assemble whenever, in their opinion, the public interest shall warrant it.

THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to Senate Resolution 157 introduced earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 157) tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 157) was agreed to, as follows:

S. RES. 157

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Al Gore, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundred Fifth Congress.

Mr. LOTT. Mr. President, I would like to note at this point in the RECORD that on occasion we do make use of the Vice President's office across the hall. He is unfailingly cooperative in making it available to Senators on both sides of the aisle. And it has been a pleasure working with the Vice President in his role in presiding over the Senate this year.

TENDERING THE THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to Senate resolution 158, introduced earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 158) tendering the thanks of the Senate to the President pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 158) was agreed to, as follows:

S. RES. 158

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Strom Thurmond, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the One Hundred Fifth Congress.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I just want to call attention to this resolution. I think the President pro tempore deserves the accolades, the attention that this resolution provides. Many of us have watched with great admiration as he has conducted his responsibilities as President pro tempore. He has been doing it now for over 100 years.

(Laughter.)

And we are just grateful that he continues to do it with such aplomb. We thank him and we appreciate, as the resolution notes, his ''courteous, dignified, and [extraordinarily] impartial'' approaches to his responsibilities. And we thank him for that.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I want to thank Senator DASCHLE for his comments and the accuracy of the years of service. I note that the President pro tempore is working now as we are commending him. He is diligently tending

to his duties as the real leader of the Senate.

I want to note also that throughout the year, whether we have come in early or the middle of the day, whatever it might be, he was unfailingly waiting at the door, ready to call the Senate to order, and a couple times instructed the younger Member—the majority leader—that I was cutting it mighty close and we needed to start right on time. We were supposed to start at 9 or 9:30, and he expected me to be present and accounted for.

But I want to join Senator DASCHLE in expressing my admiration and great appreciation to Senator THURMOND, for the tremendous job he does for his people in South Carolina and what a credit he is to the Senate and what a great job he does for our country.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I want to express my deep appreciation to the majority leader and the minority leader. In a few minutes, I will have a few words to say about them.

COMMENDING THE EXEMPLARY LEADERSHIP OF THE DEMOCRATIC LEADER

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now proceed to Senate Resolution 159, introduced earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 159) to commend the exemplary leadership of the Democratic leader.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I will take a moment here to say I do enjoy and appreciate the relationship that I have with the Democratic leader. We have developed a relationship that is based on trust. Our word has been good to each other. While on occasion we disagree on substance and sometimes we are a bit testy in our remarks, I think overall over the past year and a half since I have had the honor of serving as a majority leader our relationship has been a healthy one and good for the overall atmosphere in the Senate and I hope we can continue that relationship as we go into the second session of the 105th Congress.

Mr. DASCHLE. I thank the majority leader.

Mr. LOTT. I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table, if there is not objection by the Democratic leader

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

The resolution (S. Res 159) was agreed to.

The resolution is as follows:

S. RES. 159

Resolved, That the thanks of the Senate are hereby tendered to the distinguished Democratic Leader, the Senator from South Dakota, the Honorable Thomas A. Daschle, for his exemplary leadership and the cooperative and dedicated manner in which he has performed his leadership responsibilities in the conduct of the Senate business during the first session of the 105th Congress.

COMMENDING THE EXEMPLARY LEADERSHIP OF THE MAJORITY LEADER

Mr. DASCHLE. I ask unanimous consent the Senate now proceed to the Senate Resolution 160, introduced earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 160) to commend the exemplary leadership of the majority leader.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, I am very grateful for the generous remarks of the distinguished majority leader. I, too, have enjoyed this relationship, and I believe over the long run this has been a very productive one. We have been able to do a number of things that I look back on with great satisfaction and great pride. I think there are more opportunities like that, and I know the majority leader shares our view that in the end we have to govern.

There is a time for politics and there is a time for leadership. I believe he has demonstrated very able leadership on many occasions; some courage, as well. He has addressed the many responsibilities that he holds. I look forward to working with him in the second session of the 105th Congress and appreciate very much his friendship and the relationship we have had.

Mr. LOTT. Mr. President, I thank Senator DASCHLE for his comments.

Mr. DASCHLE. I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S.Res. 160) was agreed to.

The resolution is as follows:

S. RES. 160

Resolved, That the thanks of the Senate are hereby tendered to the distinguished Majority Leader, the Senator from Mississippi, the Honorable Trent Lott, for his exemplary leadership and the cooperative and dedicated manner in which he has performed his leadership responsibilities in the conduct of Senate business during the first session of the 105th Congress.

MEASURE READ THE FIRST TIME—S. 1530

Mr. LOTT. Mr. President, I understand S. 1530, which was introduced early today by Senator HATCH, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1530) to resolve ongoing tobacco litigation, to reform the civil justice system responsible for adjudicating tort claims against companies that manufacture tobacco products, and establish a national tobacco policy for the United States that will decrease youth tobacco use and reduce the marketing of tobacco products to young Americans.

Mr. LOTT. I now ask for its second reading, and I would object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

ORDERS FOR COMMITTEES TO FILE REPORTED ITEMS

Mr. LOTT. I ask unanimous consent committees have from the hours of 10 a.m. to 2 p.m. in order to file legislative or executive reported items on the following dates: December 3, January 6, and January 16.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. I ask unanimous consent the Senate go into executive session and immediately proceed en bloc to the following nominations on the Executive Calendar: No. 327, No. 350, No. 386 and No. 465. I further ask unanimous consent that the Senate proceed en bloc to the consideration of two nominations reported by the Armed Services Committee today.

I ask unanimous consent that the nominations be confirmed en bloc, the motion to reconsider be laid on the table, and any statements appear in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Raymond C. Fisher, of California, to be Associate Attorney General.

EXECUTIVE OFFICE OF THE PRESIDENT

Rita D. Hayes, of South Carolina, to be Deputy United States Trade Representative, with the rank of Ambassador.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Gail W. Laster, of New York, to be General Counsel of the Department of Housing and Urban Development.

THE JUDICIARY

Lynn S. Adelman, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin.

DEPARTMENT OF DEFENSE

William J. Lynn, III, of the District of Columbia, to be Under Secretary of Defense (Comptroller).

NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Henry G. Ulrich, III, 2552.

STATEMENT ON THE NOMINATION OF LYNN ADELMAN TO U.S. DISTRICT COURT

Mr. KOHL. Mr. President, let me take this opportunity to tell you why Lynn Adelman, the President's nominee for the U.S. District Court for the Eastern District of Wisconsin, is such a fine choice to fill the vacancy created when Judge Curran took senior status.

First, Lynn Adelman has a record of unquestioned skill and unequaled experience in his 30 years of practice. His dedication, hard work and intelligence has been displayed in both civil and criminal cases, before the Wisconsin Supreme Court and before the Supreme Court of the United States.

Second, Lynn Adelman has spent a life devoted to public service. He has dedicated a great deal of his professional time to disadvantaged clients. And, rather than pursue his private practice full-time, he has simultaneously served in public office. As a State senator for 20 years, much of the time serving as chairman of the Judiciary Committee, he has championed the causes of families, crime victims and government accountability.

Based on this outstanding record, Lynn Adelman received high marks from the nonpartisan commission that Senator FEINGOLD and I established with the State Bar. And his nomination has bipartisan support, including the endorsement of Wisconsin's Republican Governor, Tommy Thompson. Although they have not always seen eye to eye, Governor Thompson wrote that Lynn is ''thoughtful, fair and open-minded'' as well as someone who ''is sensitive to and has respect for the principle of the separation of powers.''

Finally, let me conclude on a personal note. My family has known the Adelman family for over 30 years, and I have known Lynn personally for more than 20. I know that he has the compassion, integrity and skill that will make him a valuable addition to the bench.

Mr. FEINGOLD. Mr. President, I am pleased that the U.S. Senate took action today to confirm Lynn Adelman to the Federal District Court. Lynn's entire career, both in the State legislature and his private legal practice, has been marked by his dedication to serving the people of our State and makes him particularly well suited for a position on the federal bench. I have no doubt that he will continue his career of public service in this new capacity and will be an excellent jurist for the people of Wisconsin.

President Clinton choose Lynn Adelman's name from the three forwarded to him by the nominations committee that Senator KOHL and I established to review potential nominees for Wisconsin's federal bench. I am pleased that the full Senate, having had an opportunity to review Lynn Adelman's record and to hear from him directly when he testified before the Senate Committee on the Judiciary, has reached the same conclusion that Senator KOHL, President Clinton, Governor Thompson, people all across Wisconsin and I have reached. That being that Lynn Adelman will be an exemplary federal judge.

Lynn Adelman was born in Milwaukee and is a graduate of Princeton University and Columbia Law School. He graduated cum laude from both of these excellent institutions. After a brief period working in New York, Lynn returned his native Wisconsin and began what to this day has been a career of dedicated public service to the people of our State. Lynn worked in private practice in Wisconsin beginning in 1972 and continues to do so today.

In 1977, Lynn was elected to the Wisconsin State Senate for the 28th District. In the twenty years that he has represented the 28th District, he has been a leading voice in the Wisconsin Legislature. I had the distinct honor of serving with Lynn for ten years while I was a Wisconsin State Senator and worked with him on the Judiciary Committee, which he has chaired on two occasions.

Lynn Adelman's legislative record and commitment to the people of his district and the State of Wisconsin has earned him bi-partisan praise. In fact, Republican Governor Tommy Thompson, writing in support of this nominee, characterized Lynn Adelman as ''. . .thoughtful, fair and open-minded. . .'' The Governor has also noted how he and Lynn have worked hand in hand to ensure the passage of important legislation ranging from anti-crime and anti-drug legislation to welfare reform. This bi-partisan praise is a significant statement about the character and ability of Lynn Adelman.

At the same time he has served in the Wisconsin Legislature, Lynn Adelman has continued his practice as a successfully attorney. He has appeared in both criminal and civil cases, before both State and Federal courts. Lynn's considerable legal skills also resulted in him arguing before the United States Supreme Court in 1993.

There can be little doubt that Lynn Adelman's career makes him well suited to serve on the federal judiciary. His knowledge of the law is undeniable. He has a unique perspective on our legal system, born of his service in the legislature and as a practicing attorney, He understands the fundamental principle of separation of powers and has the temperament necessary to treat everyone who comes before him with the respect and dignity they deserve. In short, he has all the tools necessary to serve the people of Wisconsin with distinction. I am pleased the Senate has chosen to confirm him today.

Mr. LOTT. Mr. President, I note—while I don't have the exact numbers here before me, I will insert in the RECORD later the numbers that are involved—during the first session of the 105th Congress we have now confirmed over 3,500 civilian nominations, both judicial and other executive branch nominations. That does not include military nominations. The total number, I think, comes to over 20,000 nominations that we have confirmed during the first year of the 105th session of Congress.

Mr. DASCHLE. Mr. President, if I could just comment on that, as well.

I want to thank the majority leader for his virtually tireless effort, over the last couple of days in particular, to clear the Executive Calendar. We had at one point well over 100 nominations pending on the calendar and we have it down now to just a handful. That would not have happened without his effort. None of these are easy. Some are easier than others. I wish we could have done them all. In some cases it is a responsibility of those on this side for not having been able to address some of these nominations.

I appreciate very much the effort made by the majority leader in the last couple of days to successfully complete the work of Executive Calendar. I think, by and large because of his efforts, we have done so.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, there are a couple of matters yet to be completed tonight, including the Amtrak reform package that should be coming momentarily from the House. Senator DASCHLE and I want to notify the President we are moving toward completion of our work tonight.

Later on, when we have the final announcement, we will advise the Senate that it would reconvene, the 105th Congress, second session, following a live quorum the morning of January 27, and there would be a live quorum which would proceed morning business until 2 p.m. on that day, and on Tuesday night, January 27, at 9 p.m., we would have the President's State of the Union Address. So the Senate will convene, then, that night at 8:30 in order to proceed to the body of the Hall of the House of Representatives to hear the address.

There will be no legislative business on Tuesday, January 27 except for those actions that may be cleared for unanimous consent. Therefore, no votes will occur during the session on that Tuesday.

Senators should be aware that the following items are expected to be considered during the early days of the second session of the 105th Congress:

The ISTEA transportation infrastructure bill; juvenile justice; the nomination of Margaret Morrow of California to a judgeship; and the nomination of Ann Aiken, prior to the end of the first week.

I do want to thank my colleagues for their cooperation throughout this session of Congress, and especially on the Executive Calendar. I know there has been a lot of effort made there on both sides of the aisle and we leave just a very few on that calendar. I note we have confirmed this year 36 judges. I believe we will act on at least four or five others very quickly in the beginning of the next session. We had three reported today by the Judiciary Committee, all of which I understand were noncontroversial, but it was late in the afternoon and we did not have the time to give Senators proper notice that we would proceed. So I expect that we will do those the first week back, also.

Mr. President, I yield the floor.

COMMENDING THE MAJORITY AND MINORITY LEADERS

Mr. NICKLES. Mr. President, I want to compliment my colleague, the majority leader, for doing an outstanding job, as well as the minority leader, Senator DASCHLE. They have worked very well together this session. We had some real trials and tribulations, but I think, together, they were an outstanding combination. They were able to pass the Nation's important business, such as the budget and historic tax relief.

I think this was a productive Congress. Again, I wish to compliment the majority and minority leaders for their effort and leadership.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, the President pro tempore of the Senate, Mr. THURMOND, is recognized.

COMMENDING THE LEADERSHIP AND STAFF OF THE SENATE

Mr. THURMOND. Mr. President, as we come to the end of the session, I want to say that the Senate could not run without competent people. We have been fortunate to have an outstanding majority leader in Senator LOTT, who is a man of integrity, ability, and dedication, and an outstanding man in the minority leader, too, Senator DASCHLE. Both of them have performed outstanding service to their country and this body. I predict that, someday, Senator LOTT may become our President. I also want to thank our leadership, including Senators NICKLES, CRAIG, MACK, COVERDELL, and MCCONNELL, all who have cooperated and worked together to bring about the results that we have obtained.

Now, Mr. President, I want to compliment some other people, too, and I will read their names: Elizabeth Greene, David Schiappa, Greer Amburn, of the Republican floor staff; the Democratic floor staff, Lula Davis and Marty Paone; the cloakroom staff, Brad Holsclaw, Laura Martin, Tripp Baird, and Mike Smythers.

I also want to thank the Secretary of the Senate, Gary Sisco; the Sergeant at Arms, Greg Casey; the Senate Chaplain, Lloyd J. Ogilvie; the clerks of the Senate; the Senate Parliamentarians, the Official Reporters of the Senate, and the Senate Pages, who have all contributed to make this a successful session. We are very proud to commend them for their outstanding work.

At the close of the session, I want to say that a lot has been done here. In years to come, people can look back and say that the 105th session of Congress accomplished a great deal. It is because of these leaders here and their staffs who worked hard. We could not run this place without these competent staff members. I am very proud of all of them.

Mr. President, in closing, I want to say that it has been a pleasure to work with all these people, the Senators and the staffs. As the holiday season approaches, I wish them all a happy Thanksgiving and a merry Christmas.

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. 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.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE CONGRESS

Mr. LOTT. Mr. President, I send an adjournment resolution to the desk calling for a conditional adjournment of the first session of the 105th Congress until Tuesday, January 27, 1998. I ask unanimous consent that the current resolution be agreed to and the motion to reconsider be laid upon the table, all without further action or debate.

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

The concurrent resolution was agreed to.

The concurrent resolution (S. Con. Res. 68) is as follows:

S. CON. RES. 68

Resolved by the Senate (the House of Representatives concurring), That when the House adjourns on the legislative day of Thursday, November 13, 1997, or Friday, November 14, 1997, on a motion offered pursuant to this concurrent resolution by the Majority Leader or his designee, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, and that when the Senate adjourns on Thursday, November 13, 1997, or Friday, November 14, 1997, on a motion offered pursuant to this concurrent resolution by the Majority Leader or his designee, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SEC. 3. The Congress declares that clause 5 of rule III of the Rules of the House of Representatives and the order of the Senate of January 7, 1997, authorize for the duration of the One Hundred Fifth Congress the Clerk of the House of Representatives and the Secretary of the Senate, respectively; to receive messages from the President during periods when the House and Senate are not in session and thereby preserve until adjournment sine die of the final regular session of the One Hundred Fifth Congress the constitutional prerogative of the House and Senate to reconsider vetoed measures in light of the objections of the President, since the availability of the Clerk and the Secretary during any earlier adjournment of either House during the current Congress does not prevent the return by the President of any bill presented to him for approval.

SEC. 4. The Clerk of the House of Representatives shall inform the President of the United States of the adoption of this concurrent resolution.

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

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

COMMENDING THE MINORITY LEADER

Mr. FORD. Mr. President, this will be next to my last end-of-session period, and at the end of next year and the 105th Congress I will be joining my family back in Kentucky.

But let me say that in all of my 23 years so far here I have never enjoyed so much the friendship and watched the work of the Democratic leader to be any more outstanding or any more caring, developed with integrity and character. He is one individual who I think, when you look back at his theme of ''families first''—that was the view of all of the 100 Senators—that not only would this Chamber be covered with accolades for the job he has done, but we would see this country progress in a much better and finer fashion.

So to the Democratic leader, I pay my respect, and my everlasting thanks for his courtesy in working with me during the year.

Having said that, I want to say that he has developed one of the finest staffs not only on the floor but in his office that anyone could work with. All of us are anxious to do good. All of us are anxious to say the right things. But we have to have the right kind of support.

So as we observe the Senate floor and see who is doing the work and putting the package together, we all understand that we have chosen well in the staff on both sides.

So, Mr. President, I didn't want to leave here without saying to my friend from South Dakota when he reached out to help all families that he reached

out to my family and to my family's family. And I see what good will come from his efforts and his desire and his hope and vision for the future.

Also, I want to say that I think he has worked very well with the majority leader. The majority leader has had some tremendous stress and strain. But had it not been for the cooperation and effort of the Democratic leader, the first session of the 105th Congress would not be ending on the high note that I believe it is.

I thank the Chair.

I suggest the absence of a quorum.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

THANKS TO SENATOR WENDELL FORD

Mr. DASCHLE. Mr. President, let me thank the Senator from Kentucky for his very generous comments. I am not worthy of his remarks. I appreciate very much the kindness that he has shown me in all the years that we have worked together but in particular the last three. I couldn't be a luckier leader than I am to have the ability to work as closely as I can and do with the distinguished minority whip. It has been a real joy for me.

This has not been an easy year for him. As the ranking member of the Rules Committee, he had to deal with a very, very contentious issue with the seating of Senator LANDRIEU.

He has had an array of challenges presented to him, and each and every time I had the confidence and the good fortune to know that he was going to successfully work through those challenges and difficulties with the kind of ability and tenacity and extraordinary work that he does so routinely.

So I thank him for his work. I thank him for his friendship and the tremendous effort that he has put forward in making our caucus what it is today. I truly believe that any leader is only as good as the team he has to work with. I have the good fortune to have, in my view, one of the best teams the Democratic caucus has ever had in leadership. And he is the preeminent example of what I am referring to. He is respected so widely and so enthusiastically that it goes without saying that when it comes to respect and when it comes to the extraordinary admiration that his colleagues have for him, Wendell Ford is in a class by himself.

THANKING THE STAFF

Mr. DASCHLE. Mr. President, let me also commend, as Senator FORD did, our floor staffs on both sides. The Senator has expressed his gratitude to my staff in the leader's office. I do so as well. They have just been remarkable all year long. But whether it is in the leader's office or here on the floor, it has made my job one that has been so much easier as a result of their efforts and their knowledge of the way our process works. They bring to work each day an extensive experience but, more than experience, an attitude that I think epitomizes the kind of quality of people that we have.

So I thank our staff. I thank our leadership team. I thank the caucus. I am very grateful once more to celebrate what I consider to be good teamwork all the way around.

I yield the floor.

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

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

DEMOCRATIC LEADERSHIP

Mr. DURBIN. Mr. President, I am completing my first year in the Senate. I will be the first to confess I have a lot to learn, but it has certainly been a rewarding experience serving in this great body. Having had the opportunity to serve 14 years in the House, I was no stranger to Capitol Hill, but this is a much different institution. The dynamic of 100 men and women working together as opposed to 435 is substantially different. I have been impressed with the volume of work that each Senator is asked to shoulder. I have also been very impressed with the leadership, and I join my colleague from Kentucky, Senator FORD, in noting the fine work of Senator DASCHLE as the Democratic minority leader. It is a tough job. He is lucky to have a good staff to have the energy and talent he brings to it. We are fortunate on the Democratic side to have him.

NOMINATION OF BILL LANN LEE

Mr. DURBIN. Mr. President, at this moment I would like to make reference to what happened in the Senate Judiciary Committee today relative to the nomination of Bill Lann Lee.

Bill Lann Lee is a Chinese-American who was designated by President Clinton to head the Civil Rights Division in the Department of Justice. It is probably one of the more controversial jobs in the Federal Government.

Civil rights, of course, throughout our history has evoked great emotion. Bill Lann Lee is a person, the son of Chinese immigrants, who came up the hard way, faced challenges which many of us have never faced, overcame them, and then devoted 23 years of his life serving with the NAACP Legal Defense Fund. It is interesting; he filed some 200 different civil rights lawsuits in his public career, settled all but six of them—settled all but six of them.

As the mayor of Los Angeles, a Republican, Richard Riordan, said, Bill Lann Lee is the mainstream of civil rights law. He is a person who looks for practical and pragmatic solutions to civil rights challenges.

Mr. President, in my estimation, he is exactly the right person for this job, and I am glad the President nominated him. What happened to Bill Lann Lee today in the Judiciary Committee was a very sad situation for Bill Lann Lee. Unfortunately, he did not have the votes and had his name been called, he would not have been approved by the Senate Judiciary Committee and sent to the floor of the Senate for confirmation. So as a result, there was a parliamentary tangle, and when all was said and done very little was done after 2 or 3 hours of speeches.

It strikes me as sad that we have now reached a point in this debate over race and civil rights in this country where we are headed in the wrong direction. It is sad that the leaders of both political parties do not look for opportunities to bind the wounds of this country, wounds of several centuries over the issue of race, but instead continue to look for flash points, buzz words, bringing up issues like quotas and preferences and such.

Bill Lann Lee was asked directly, what is his position on quotas. He said, unequivocally, decisively, ''I am against them.'' Bill Lann Lee said, ''I am against quotas.'' But if you would listen to his critics in the Judiciary Committee today, you would think his answer was exactly the opposite. They won't accept yes for an answer. Bill Lann Lee said, ''Yes, I am opposed to quotas,'' and yet they continue to badger him and say, oh, that isn't what he really means.

It is ironic, too, when they quizzed him about the important Supreme Court decisions in the area of civil rights, he gave what I thought were very cogent, thoughtful answers and complete to the best of his ability. In fact, his answers, as the New York Times reported this morning, were virtually identical to the answers of Seth Waxman, a man who sought the position of Solicitor General, who was well qualified for the job, and was approved by the Judiciary Committee and by the Senate without much of any kind of resistance. But along comes Bill Lann Lee, and for some reason, giving the same answers to the same questions, he is being rejected.

I said today in the Judiciary Committee that I wasn't certain that if Thurgood Marshall's name had been submitted today to head the Civil Rights Division, he could have made it through that committee. In fact, I will go beyond that; he could not have made it through that committee because, you see, Thurgood Marshall, who distinguished himself in the field of civil rights throughout his lifetime and went on to serve this country with distinction on the Supreme Court, was an activist, a man who actively pursued the cause of equal rights in America. And I have to tell you that the political sentiment in the Senate Judiciary Committee is not open to that sort of individual.

So now President Clinton faces a dilemma, what to do. After the Senate Judiciary Committee action today, or failure to act, should the President walk away from Bill Lann Lee and try to find some other for the job? I hope he doesn't. I hope he doesn't. I hope the President will appoint Bill Lann Lee, as he has the right to do, as a recess appointment to this job that will at least give him 1 year to serve in this position. He deserves it. And in that service he will prove to a lot of his detractors that he is up to the job.

In addition, I might add, if Bill Lann Lee won't make it in this position, if Republicans are opposed to him, I am afraid there isn't a person the President could send that they would approve because, you see, they are not looking for someone who represents the philosophy of the administration, the philosophy of the Department of Justice or the philosophy of the President. They are looking for someone who represents their Republican philosophy. But if I understand the Constitution in its basic form, the people of America spoke last November and said that Bill Clinton was to be the President. They endorsed his philosophy over Bob Dole and other candidates, and now when he tries to appoint people to positions to carry out that philosophy, they say, no, we are not going to let that happen.

That is a sad situation, sadder still when you think about how this has developed to a point where what was a bipartisan consensus on the issue of civil rights is starting to deteriorate very dramatically. Today in the committee only one Republican Senator, ARLEN SPECTER, of Pennsylvania, said he would vote for Bill Lann Lee. We needed one more out of the remaining nine, and we could not find them. So Bill Lann Lee's nomination languished.

What is sadder still is that this fine man and his beautiful family are now left with uncertainty about their future. When he could have been preparing to serve this Nation in an important capacity and make life better for so many people, his future is in doubt.

Those who argued that this is just a question of race looked beyond the issue of civil rights in its entirety.

The issue of civil rights goes beyond racial questions into questions involving gender, questions involving people with personal physical disabilities, questions of ethnic background. The Civil Rights Division makes us feel uncomfortable as Americans because time and again it forces us to focus our view on things we don't want to talk about. We don't want to talk about discrimination at a major corporation against African Americans. We don't want to talk about discrimination at a major city's police department against women. We don't want to talk about meetings of Federal law enforcement officials, as happened several years ago, where there were outright racist comments being made time and again. Yet we must. Because if this Nation really stands for what we believe it does, if it is truly committed to equal rights, we have to face the reality that there are times when we have strayed from our goal.

Bill Lann Lee, I hope, will ultimately be confirmed by this Senate, I hope not only because he would be the highest ranking Asian American in the history of this country but also because, with his life, he has set out to prove that having been the son of Chinese immigrants, having been someone who is a recipient of an affirmative action program at Yale University and also at Colombia Law School, that he could prove himself to be up to the task.

I had a moment this evening, so I took out a card in my desk and wrote a personal note to him because I have been thinking about him a lot recently. I still remember his wife, his family. I especially remember his mother, his mother who is I am sure up in years but I won't even try to guess what her age might be. She was a woman who worked in a hand laundry in New York for years, and there she sat at a confirmation hearing seeing her son who used to run around this little hand laundry in New York now being nominated for one of the highest positions in the Federal Government. I am glad she got to see that nomination, but I am sorry that she had to witness what has happened since. She came to this country as an immigrant with hope. Her husband, who Bill Lee identified as his greatest inspiration in life, was a man who was totally committed to this country.

During World War II, at the age of 36 when he could have escaped the draft, he volunteered, went into the Army Air Corps and served with real distinction. When he came out he said to his sons, ''It was the right thing to do. They treated me like I was an American—not a Chinaman living in America.''

That lesson was not lost on Bill Lann Lee. It hasn't been lost on any of us. I sincerely hope that when we return, some of the rancor and some of the negative feelings have abated and that people will consider once again the need to look at this important nomination. If there needs to be a national debate on affirmative action, the debate should take place right here on the floor of this Chamber. Democrats and Republicans can argue the merits or demerits. They can talk about changes, as we should in any law. But to make this one man the focal point of this debate and to literally say that he cannot have an opportunity to serve because we as a nation are divided on the question, I think is fundamentally unfair.

So, as we adjourn and go off for another 10 or 11 weeks back in our districts and other places, back in our home States, I hope we will not forget that we have a responsibility when we return, a responsibility not just to Bill Lann Lee but to many others who hope that in a bipartisan fashion we can continue to address the issue of civil rights in a civil manner.

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. 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.

REAL ESTATE SETTLEMENT PROCEDURES ACT AMENDMENTS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 607, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 607) to amend the Real Estate Settlement Procedures Act of 1974 to require notice of cancellation rights with respect to private mortgage insurance which is required as a condition of entering into certain federally related mortgage loans and to provide for cancellation of such insurance, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1637

(Purpose: To provide for a substitute and to amend the title.)

Mr. LOTT. Mr. President, Senator D'AMATO has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. D'AMATO, proposes an amendment numbered 1637.

Mr. LOTT. 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:

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be considered read a third time and passed, as amended; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The amendment (No. 1637) was agreed to.

The bill (H.R. 607), as amended, was read the third time and passed.

BOYS AND GIRLS CLUBS OF AMERICA FACILITIES ESTABLISHMENT ACT

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on

the bill (S. 476) to provide for the establishment of not less than 2,500 Boys and Girls Clubs of America facilities by the year 2000.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 476) entitled ''An Act to provide for the establishment of not less than 2,500 Boys and Girls Clubs of America facilities by the year 2000.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. 2,500 BOYS AND GIRLS CLUBS BEFORE 2000.

(a) IN GENERAL.—Section 401(a) of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended by striking paragraph (2) and inserting the following:

''(2) PURPOSE.—The purpose of this section is to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local clubs where needed, with particular emphasis placed on establishing clubs in public housing projects and distressed areas, and to ensure that there are a total of not less than 2,500 Boys and Girls Clubs of America facilities in operation not later than December 31, 1999.''.

(b) ACCELERATED GRANTS.—Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended—

(1) in subsection (b)(2), by striking ''or rural'' and all that follows through the end and inserting the following: ''rural area, or Indian reservation with a population of high risk youth as defined in section 517 of the Public Health Service Act (42 U.S.C. 290bb–23) of sufficient size to warrant the establishment of a Boys and Girls Club.''; and

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

''(c) ESTABLISHMENT.—

''(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall make a grant to the Boys and Girls Clubs of America for the purpose of establishing and extending Boys and Girls Clubs facilities where needed, with particular emphasis placed on establishing clubs in and extending services to public housing projects and distressed areas.

''(2) APPLICATIONS.—The Attorney General shall accept an application for a grant under this subsection if submitted by the Boys and Girls Clubs of America, and approve or deny the grant not later than 90 days after the date on which the application is submitted, if the application—

''(A) includes a long-term strategy to establish 1,000 additional Boys and Girls Clubs and detailed summary of those areas in which new facilities will be established, or in which existing facilities will be expanded to serve additional youths, during the next fiscal year;

''(B) includes a plan to ensure that there are a total of not less than 2,500 Boys and Girls Clubs of America facilities in operation before January 1, 2000;

''(C) certifies that there will be appropriate coordination with those communities where clubs will be located; and

''(D) explains the manner in which new facilities will operate without additional, direct Federal financial assistance to the Boys and Girls Clubs once assistance under this subsection is discontinued.''.

(c) ROLE MODEL GRANTS.—Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended by adding at the end the following:

''(f) ROLE MODEL GRANTS.—Of amounts made available under subsection (e) for any fiscal year—

''(1) not more than 5 percent may be used to provide a grant to the Boys and Girls Clubs of America for administrative, travel, and other costs associated with a national role-model speaking tour program; and

''(2) no amount may be used to compensate speakers other than to reimburse speakers for reasonable travel and accommodation costs associated with the program described in paragraph (1).''.

Mr. LEAHY. Mr. President, I am delighted that the Senate today has accepted the House amendment to S. 476 to ensure Indian reservations and rural areas are eligible for the funding authorized under this bill to expand Boys & Girls Clubs across the country. I am also pleased that this legislation will be sent to the President this evening for his signature.

When this bill was under discussion in the Senate last spring, I made sure that rural areas, including many areas of my home State of Vermont, would be eligible for grants to establish some of the targeted 2,500 new Boys & Girls Clubs of America. Representative BUYER's amendment will now ensure that Indian reservations will qualify under this bill. The original language in this bill was more restrictive, requiring the grants to be used only for the purpose of establishing Boys & Girls Clubs in public housing projects and other distressed areas. I have worked with the Boys & Girls and know that they understand that rural areas as well as urban can qualify as ''distressed areas''.

The bill is now more expansive and will give girls and boys in rural areas and on reservations greater opportunities to share in Boys & Girls Clubs and their programs. The revised statute will authorize grants for establishing and extending facilities ''where needed''. Particular emphasis continues to be given to housing projects, where Boys & Girls Clubs have proven effective in preventing youth crime, and to distressed areas, rural or urban. But the ''where needed'' language should help make expansion into rural areas a greater priority.

The changes made to that program by this bill also permit up to 5 percent of the grant funds to be used to establish a role model speakers' program. Anyone who has seen Boys & Girls Clubs of America commercial with Denzel Washington and his coach will know the kinds of outstanding role models that we are seeking to promote to encourage and motivate young people to be involved, productive citizens.

I have seen the outstanding results at the Boys & Girls Clubs in Burlington, VT. The role models they provide include the outstanding instructors and volunteers who work in the Club's many programs. I have also witnessed the outstanding result of the Kids 'N Kops Program at the University of Vermont with the cooperation of local law enforcement.

Expansions are proceeding and over 200 new clubs serving 180,000 youth were opened as a result of last year's appropriation. I know that the Burlington Boys & Girls Clubs received $100,000 to help enhance that Club's outreach efforts. I am also pleased to report that a new club will soon be established in Rutland, VT. I would like to thank Robbie Callaway and the many others at the Boys & Girls Clubs of America who have worked so hard to establish these important programs throughout the United States. I applaud your dedication and commitment to ensuring that our Nation's youth have solid alternatives to hanging out in the streets.

I know that the national headquarters is also researching the feasibility of a club in Essex Junction. I hope that with the continuation of this initiative they will look for opportunities to serve young people in Montpelier, Brattleboro, St. Johnsbury and other Vermont locations, as well. I would be delighted for a sizable portion of the 1,000,000 additional young people who we hope will be served by the end of this century to come from the 145,000 young people in Vermont and those in other rural areas.

In supporting this bill, I encourage the Boys & Girls Clubs as one example of a successful youth-oriented program that can help make a difference in young people's lives and prevent crime and delinquency. I also support the work of others who are effective with young people, including our outstanding 4-H programs.

This measure should not become an excuse for anyone not to join with us to bolster comprehensive drug education and prevention for all elementary and high school students. As I have urged in the Judiciary Committee discussions of S. 10, the Violent and Repeat Juvenile Offender Act, we should proceed to help create after school ''safe havens'' where children are protected from drugs, gangs and crime with activities including drug prevention education, academic tutoring, mentoring, and abstinence training. This bill is a step but should not be the end of our efforts to support programs that help prevent juvenile delinquency, crime, and drug abuse.

Mr. LOTT. Mr. President, I move that the Senate concur in the amendment of the House.

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

The motion was agreed to.

AMENDING SENATE RESOLUTION 48

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 161, submitted earlier today by Senator LOTT.

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

The legislative clerk read as follows:

A resolution (S. Res. 161) to amend Senate Resolution 48.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in RECORD.

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

The resolution (S. Res. 161) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 161

Resolved, That Senate Resolution 48, 105th Congress, agreed to February 4, 1997, is amended—

(1) in section 1(e), by striking ''$5,000'' and inserting ''$10,000''; and

(2) in sections 1(e) and 1(g), by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

GRANTING CONSENT OF CONGRESS TO CHICKASAW TRAIL ECONOMIC DEVELOPMENT COMPACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 95, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 95) granting the consent of Congress to the Chickasaw Trail Economic Development Compact.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. THOMPSON. Mr. President, I would like to take this opportunity to make a few brief comments with my colleague, Senator LOTT, in support of H. J. Res. 95, a resolution passed by the House of Representatives which gives the consent of Congress to the Chickasaw Trail Economic Development Compact. As the U.S. Constitution requires all State compacts to be approved by Congress, Representatives ED BRYANT of Tennessee and ROGER WICKER of Mississippi recently introduced this legislation in the House.

This Compact will allow the States of Tennessee and Mississippi to determine the feasibility of establishing an industrial park which would straddle the border between the two States. This proposed Industrial Park would lie in both Fayette County, TN. and Marshall County, MS. Governors Sundquist and Fordice have each expressed their support for this initiative, as they believe this type of industrial park will be strengthened by taking a regional approach to industrial recruitment and development.

I believe that Tennessee will benefit from this initiative by combining the competitive assets of southwest Tennessee and Northern Mississippi to create an attractive and viable business park.

I ask my friend from Mississippi, Senator LOTT, if he agrees that this initiative will be of significant benefit to our two States and, indeed, to much of the Southeast region?

Mr. LOTT. I thank the Senator for his comments. This area of our two States is growing rapidly and I agree that a new, bistate industrial park would be of great benefit to both Mississippi and Tennessee. It is my hope that this proposed economic development project will mean a major increase in the number of jobs and level of prosperity for this region of the country.

I have been working on this proposal for an industrial park for a number of years and I am pleased that this essential, in fact critical, next step of the process is taking place now. I know that both you and I will keep a close watch on the progress of this proposed industrial park and I thank you for bringing it up on the floor.

Mr. FRIST. Mr. President, I rise today in support of House Joint Resolution 95, a measure introduced by my friend, Representative ED BRYANT of the Seventh District of Tennessee. This legislation gives congressional approval to the Chickasaw Trail Economic Development Compact. This partnership is an interstate compact created by agreement of the Mississippi and Tennessee State Legislatures to promote joint economic development and interstate cooperation in a rural, undeveloped area of Fayette County, TN, and Marshall County, MS.

The plan creates the Chickasaw Authority, which will conduct a study of the feasibility of establishing an industrial park in the area. If this study produces a positive recommendation, Mississippi and Tennessee would then negotiate a new compact implementing the details to establish a 4,000- to 5,000-acre industrial park. Such a facility would capitalize on the strengths that lie on both sides of the State line and attract new investment and employment opportunities. The proximity of the park to metro Memphis would build on the already strong commercial activity in Southwest Tennessee and North Mississippi. To my knowledge, this type of cooperation between States has never been attempted.

Mr. President, I am proud to add my name to the unanimous support of the members of the Tennessee and Mississippi congressional delegations. it is my hope that this project will bring economic development and jobs by attracting new sophisticated high-technology industries to the area. I would like to thank the majority leader, Senator LOTT, for his assistance in bringing this measure before the Senate, and I would also like to thank Senator THOMPSON and Senator COCHRAN for their support for this initiative. I yield the floor.

Mr. LOTT. Mr. President, I ask unanimous consent that the joint resolution be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The joint resolution (H.J. Res. 95) was read the third time and passed.

GRANTING CONSENT AND APPROVAL OF CONGRESS TO AMEND WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 986, which is at the desk.

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

The legislative clerk read as follows:

A joint resolution (H.J. Res. 986) granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact.

The Senate proceeded to consider the joint resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the joint resolution be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The joint resolution (H.J. Res. 986) was read the third time and passed.

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

The preamble was agreed to.

AMTRAK REFORM AND ACCOUNTABILITY ACT OF 1997

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 738) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 738) entitled ''An Act to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49; TABLE OF SECTIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Amtrak Reform and Accountability Act of 1997''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(c) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title; amendment of title 49; table of sections.
Sec. 2. Findings.

TITLE I—REFORMS

SUBTITLE A—OPERATIONAL REFORMS

Sec. 101. Basic system.
Sec. 102. Mail, express, and auto-ferry transportation.
Sec. 103. Route and service criteria.
Sec. 104. Additional qualifying routes.
Sec. 105. Transportation requested by States, authorities, and other persons.
Sec. 106. Amtrak commuter.
Sec. 107. Through service in conjunction with intercity bus operations.
Sec. 108. Rail and motor carrier passenger service.
Sec. 109. Passenger choice.
Sec. 110. Application of certain laws.

SUBTITLE B—PROCUREMENT

Sec. 121. Contracting out.

SUBTITLE C—EMPLOYEE PROTECTION REFORMS

Sec. 141. Railway Labor Act Procedures.
Sec. 142. Service discontinuance.

SUBTITLE D—USE OF RAILROAD FACILITIES

Sec. 161. Liability limitation.
Sec. 162. Retention of facilities.

TITLE II—FISCAL ACCOUNTABILITY

Sec. 201. Amtrak financial goals.
Sec. 202. Independent assessment.
Sec. 203. Amtrak Reform Council.
Sec. 204. Sunset trigger.
Sec. 205. Senate procedure for consideration of restructuring and liquidation plans.
Sec. 206. Access to records and accounts.
Sec. 207. Officers' pay.
Sec. 208. Exemption from taxes.
Sec. 209. Limitation on use of tax refund.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

Sec. 301. Authorization of appropriations.

TITLE IV—MISCELLANEOUS

Sec. 401. Status and applicable laws.
Sec. 402. Waste disposal.
Sec. 403. Assistance for upgrading facilities.
Sec. 404. Demonstration of new technology.
Sec. 405. Program master plan for Boston-New York main line.
Sec. 406. Americans with Disabilities Act of 1990.
Sec. 407. Definitions.
Sec. 408. Northeast Corridor cost dispute.
Sec. 409. Inspector General Act of 1978 amendment.
Sec. 410. Interstate rail compacts.
Sec. 411. Board of Directors.
Sec. 412. Educational participation.
Sec. 413. Report to Congress on Amtrak bankruptcy.
Sec. 414. Amtrak to notify Congress of lobbying relationships.
Sec. 415. Financial powers.

SEC. 2. FINDINGS.

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

(4) all of Amtrak's stakeholders, including labor, management, and the Federal government, must participate in efforts to reduce Amtrak's costs and increase its revenues;

(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies;

(10) Amtrak's Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—

(A) a national passenger rail system; and

(B) that system without Federal operating assistance; and

(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.

TITLE I—REFORMS

Subtitle A—Operational Reforms

SEC. 101. BASIC SYSTEM.

(a) OPERATION OF BASIC SYSTEM.—(1) Section 24701 is amended to read as follows:

''§ 24701. National rail passenger transportation system

''Amtrak shall operate a national rail passenger transportation system which ties together existing and emergent regional rail passenger service and other intermodal passenger service.''.

(2) The item relating to section 24701 in the table of sections of chapter 247 is amended to read as follows:

''24701. National rail passenger transportation system.''.

(b) IMPROVING RAIL PASSENGER TRANSPORTATION.—Section 24702 and the item relating thereto in the table of sections for chapter 247 are repealed.

(c) DISCONTINUANCE.—Section 24706 is amended—

(1) by striking ''90 days'' and inserting ''180 days'' in subsection (a)(1);

(2) by striking ''24707(a) or (b) of this title,'' in subsection (a)(1) and inserting ''or discontinuing service over a route,'';

(3) by inserting ''or assume'' after ''agree to share'' in subsection (a)(1);

(4) by striking ''section 24707(a) or (b) of this title'' in subsection (a)(2) and inserting ''paragraph (1)''; and

(5) by striking ''section 24707(a) or (b) of this title'' in subsection (b)(1) and inserting ''subsection (a)(1)''.

(d) COST AND PERFORMANCE REVIEW.—Section 24707 and the item relating thereto in the table of sections for chapter 247 are repealed.

(e) SPECIAL COMMUTER TRANSPORTATION.—Section 24708 and the item relating thereto in the table of sections for chapter 247 are repealed.

(f) CONFORMING AMENDMENT.—Section 24312(a)(1) is amended by striking '', 24701(a),''.

SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.

(a) REPEAL.—Section 24306 is amended—

(1) by striking the last sentence of subsection (a); and

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

''(b) AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.''.

SEC. 103. ROUTE AND SERVICE CRITERIA.

Section 24703 and the item relating thereto in the table of sections for chapter 247 are repealed.

SEC. 104. ADDITIONAL QUALIFYING ROUTES.

Section 24705 and the item relating thereto in the table of sections for chapter 247 are repealed.

SEC. 105. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.

(a) REPEAL.—Section 24704 and the item relating thereto in the table of sections of chapter 247 are repealed.

(b) STATE, REGIONAL, AND LOCAL COOPERATION.—Section 24101(c)(2) is amended by inserting '', separately or in combination,'' after ''and the private sector''.

(c) CONFORMING AMENDMENT.—Section 24312(a)(1) is amended by striking ''or 24704(b)(2)''.

SEC. 106. AMTRAK COMMUTER.

(a) REPEAL OF CHAPTER 245.—Chapter 245 and the item relating thereto in the table of chapters for subtitle V of such title, are repealed.

(b) CONFORMING AMENDMENT.—Section 24301(f) is amended to read as follows:

''(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.''.

(c) TRACKAGE RIGHTS NOT AFFECTED.—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.

(a) IN GENERAL.—Section 24305(a) is amended by adding at the end the following new paragraph:

''(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

''(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

''(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

''(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

''(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.''.

(b) POLICY STATEMENT.—Section 24305(d) is amended by adding at the end the following new paragraph:

''(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in sections 11322 and 14302 of this title for the purpose of providing improved service to the public and economy of operation.''.

SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a)(3) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.

SEC. 109. PASSENGER CHOICE.

Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

SEC. 110. APPLICATION OF CERTAIN LAWS.

(a) APPLICATION OF FOIA.—Section 24301(e) is amended by adding at the end thereof the following: ''Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.''.

(b) APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 303B(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(m)) applies to a proposal in the possession or control of Amtrak.

Subtitle B—Procurement

SEC. 121. CONTRACTING OUT.

(a) REPEAL OF BAN ON CONTRACTING OUT.—Section 24312 is amended—

(1) by striking subsection (b);

(2) by striking ''(1)'' in subsection (a); and

(3) by striking ''(2) Wage'' in subsection (a) and inserting ''(b) WAGE RATES.—Wage''.

(b) AMENDMENT OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—

(1) CONTRACTING OUT.—Any collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees before the date of enactment of this Act is deemed amended to include the language of section 24312(b) of title 49, United States Code, as that section existed on the day before the effective date of the amendments made by subsection (a).

(2) ENFORCEABILITY OF AMENDMENT.—The amendment to any such collective bargaining agreement deemed to be made by paragraph (1) of this subsection is binding on all parties to the agreement and has the same effect as if arrived at by agreement of the parties under the Railway Labor Act.

(c) CONTRACTING-OUT ISSUES TO BE INCLUDED IN NEGOTIATIONS.—Proposals on the subject matter of contracting out work, other than work related to food and beverage service, which results in the layoff of an Amtrak employee—

(1) shall be included in negotiations under section 6 of the Railway Labor Act (45 U.S.C. 156) between Amtrak and an organization representing Amtrak employees, which shall be commenced by—

(A) the date on which labor agreements under negotiation on the date of enactment of this Act may be re-opened; or

(B) November 1, 1999,

whichever is earlier;

(2) may, at the mutual election of Amtrak and an organization representing Amtrak employees, be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act; and

(3) may not be included in any negotiation in progress under section 6 of the Railway Labor Act (45 U.S.C. 156) on the date of enactment of this Act, unless both Amtrak and the organization representing Amtrak employees agree to include it in the negotiation.

No contract between Amtrak and an organization representing Amtrak employees, that is under negotiation on the date of enactment of this Act, may contain a moratorium that extends more than 5 years from the date of expiration of the last moratorium.

(d) NO INFERENCE.—The amendment made by subsection (a)(1) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

Subtitle C—Employee Protection Reforms

SEC. 141. RAILWAY LABOR ACT PROCEDURES.

(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(d) DISPUTE RESOLUTION.—(1) With respect to the dispute described in subsection (a) which—

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (c),

Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board shall immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

(e) NO PRECEDENT FOR FREIGHT.—Nothing in this Act, or in any amendment made by this Act, shall affect the level of protection provided to freight railroad employees and mass transportation employees as it existed on the day before the date of enactment of this Act.

SEC. 142. SERVICE DISCONTINUANCE.

(a) REPEAL.—Section 24706(c) is repealed.

(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

(c) SPECIAL EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect 180 days after the date of the enactment of this Act.

(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

Subtitle D—Use of Railroad Facilities

SEC. 161. LIABILITY LIMITATION.

(a) IN GENERAL.—Chapter 281 is amended by adding at the end the following new section:

''§ 28103. Limitations on rail passenger transportation liability

''(a) LIMITATIONS.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury to a passenger, death of a passenger, or damage to property of a passenger arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State, punitive damages, to the extent permitted by applicable State law, may be awarded in connection with any such claim only if the plaintiff establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others. If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, this paragraph shall not apply.

''(2) The aggregate allowable awards to all rail passengers, against all defendants, for all claims, including claims for punitive damages, arising from a single accident or incident, shall not exceed $200,000,000.

''(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims.

''(c) MANDATORY COVERAGE.—Amtrak shall maintain a total minimum liability coverage for claims through insurance and self-insurance of at least $200,000,000 per accident or incident.

''(d) EFFECT ON OTHER LAWS.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the 'Federal Employers' Liability Act') or under any workers compensation Act.

''(e) DEFINITION.—For purposes of this section—

''(1) the term 'claim' means a claim made—

''(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State; or

''(B) against an officer, employee, affiliate engaged in railroad operations, or agent, of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

''(2) the term 'punitive damages' means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future; and

''(3) the term 'rail carrier' includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 281 is amended by adding at the end the following new item:

''28103. Limitations on rail passenger transportation liability.''.

SEC. 162. RETENTION OF FACILITIES.

Section 24309(b) is amended by inserting ''or on January 1, 1997,'' after ''1979,''.

TITLE II—FISCAL ACCOUNTABILITY

SEC. 201. AMTRAK FINANCIAL GOALS.

Section 24101(d) is amended by adding at the end thereof the following: ''Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.''.

SEC. 202. INDEPENDENT ASSESSMENT.

(a) INITIATION.—Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak, and independent of the Department of Transportation, to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. The Department of Transportation, Office of Inspector General, shall approve the entity's statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General's Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.

(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described in subsection (a), using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak's funding needs.

(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak's—

(1) cost allocation process and procedures;

(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

(3) Strategic Business Plan, including Amtrak's projected expenses, capital needs, ridership, and revenue forecasts; and

(4) assets and liabilities.

For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast Corridor and that required outside the Northeast Corridor, and shall include rolling stock requirements, including capital leases, ''state of good repair'' requirements, and infrastructure improvements.

(d) BIDDING PRACTICES.—

(1) STUDY.—The independent assessment also shall determine whether, and to what extent, Amtrak has performed each year during the period from 1992 through 1996 services under contract at amounts less than the cost to Amtrak of performing such services with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation. For purposes of this clause, the cost to Amtrak of performing services shall be determined using generally accepted accounting principles for contracting. If identified, such contracts shall be detailed in the report of the independent assessment, as well as the methodology for preparation of bids to reflect Amtrak's actual cost of performance.

(2) REFORM.—If the independent assessment performed under this subparagraph reveals that Amtrak has performed services under contract for an amount less than the cost to Amtrak of performing such services, with respect to any activity other than the provision of intercity rail passenger transportation, or mail or express transportation, then Amtrak shall revise its methodology for preparation of bids to reflect its cost of performance.

(e) DEADLINE.—The independent assessment shall be completed not later than 180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

SEC. 203. AMTRAK REFORM COUNCIL.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 11 members, as follows:

(A) The Secretary of Transportation.

(B) Two individuals appointed by the President, of which—

(i) one shall be a representative of a rail labor organization; and

(ii) one shall be a representative of rail management.

(C) Three individuals appointed by the Majority Leader of the United States Senate.

(D) One individual appointed by the Minority Leader of the United States Senate.

(E) Three individuals appointed by the Speaker of the United States House of Representatives.

(F) One individual appointed by the Minority Leader of the United States House of Representatives.

(2) APPOINTMENT CRITERIA.—

(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act.

(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

(i) may not be employees of the United States;

(ii) may not be board members or employees of Amtrak;

(iii) may not be representatives of rail labor organizations or rail management; and

(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual's predecessor was appointed.

(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

(B) 45 days after the date of enactment of this Act.

(5) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a trade secret or commercial or financial information that is privileged or confidential.

(g) DUTIES.—

(1) EVALUATION AND RECOMMENDATION.—The Council shall—

(A) evaluate Amtrak's performance; and

(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council shall consider all relevant performance factors, including—

(A) Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

(3) MONITOR WORK-RULE SAVINGS.—If, after January 1, 1997, Amtrak enters into an agreement involving work-rules intended to achieve savings with an organization representing Amtrak employees, then Amtrak shall report quarterly to the Council—

(A) the savings realized as a result of the agreement; and

(B) how the savings are allocated.

(h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act, the Council shall submit to the Congress a report that includes an assessment of—

(1) Amtrak's progress on the resolution of productivity issues; or

(2) the status of those productivity issues,

and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

SEC. 204. SUNSET TRIGGER.

(a) IN GENERAL.—If at any time more than 2 years after the date of enactment of this Act and implementation of the financial plan referred to in section 24104(d) of title 49, United States Code, as amended by section 201 of this Act, the Amtrak Reform Council finds that—

(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 24104(d) of title 49, United States Code, as amended by section 201 of this Act; or

(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act,

then the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

(b) FACTORS CONSIDERED.—In making a finding under subsection (a), the Council shall take into account—

(1) Amtrak's performance;

(2) the findings of the independent assessment conducted under section 202;

(3) the level of Federal funds made available for carrying out the financial plan referred to in section 24104(d) of title 49, United States Code, as amended by section 201 of this Act; and

(4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

(c) ACTION PLAN.—Within 90 days after the Council makes a finding under subsection (a)—

(1) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and

(2) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

SEC. 205. SENATE PROCEDURE FOR CONSIDERATION OF RESTRUCTURING AND LIQUIDATION PLANS.

(a) IN GENERAL.—If, within 90 days (not counting any day on which either House is not in session) after a restructuring plan is submitted to the House of Representatives and the Senate by the Amtrak Reform Council under section 204 of this Act, an implementing Act with respect to a restructuring plan (without regard to whether it is the plan submitted) has not been passed by the Congress, then a liquidation disapproval resolution shall be introduced in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. The liquidation disapproval resolution shall be held at the desk at the request of the Presiding Officer.

(b) CONSIDERATION IN THE SENATE.—

(1) REFERRAL AND REPORTING.—A liquidation disapproval resolution introduced in the Senate shall be placed directly and immediately on the Calendar.

(2) IMPLEMENTING RESOLUTION FROM HOUSE.—When the Senate receives from the House of Representatives a liquidation disapproval resolution, the resolution shall not be referred to committee and shall be placed on the Calendar.

(3) CONSIDERATION OF SINGLE LIQUIDATION DISAPPROVAL RESOLUTION.—After the Senate has proceeded to the consideration of a liquidation disapproval resolution under this subsection, then no other liquidation disapproval resolution originating in that same House shall be subject to the procedures set forth in this section.

(4) AMENDMENTS.—No amendment to the resolution is in order except an amendment that is relevant to liquidation of Amtrak. Consideration of the resolution for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except for perfecting amendments.

(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a liquidation disapproval resolution under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

(6) LIMIT ON CONSIDERATION.—

(A) After no more than 20 hours of consideration of a liquidation disapproval resolution, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or table.

(B) The time for debate on the liquidation disapproval resolution shall be equally divided between the Majority Leader and the Minority Leader or their designees.

(7) DEBATE OF AMENDMENTS.—Debate on any amendment to a liquidation disapproval resolution shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

(8) NO MOTION TO RECOMMIT.—A motion to recommit a liquidation disapproval resolution shall not be in order.

(9) DISPOSITION OF SENATE RESOLUTION.—If the Senate has read for the third time a liquidation disapproval resolution that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a liquidation disapproval resolution for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate liquidation disapproval resolution, agree to the Senate amendment, and vote on final disposition of the House liquidation disapproval resolution, all without any intervening action or debate.

(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a liquidation disapproval resolution shall be limited to not more than 4 hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

(c) CONSIDERATION IN CONFERENCE.—

(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a liquidation disapproval resolution passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

(2) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a liquidation disapproval resolution shall be limited to not more than 4 hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

(d) DEFINITIONS.—For purposes of this section—

(1) LIQUIDATION DISAPPROVAL RESOLUTION.—The term ''liquidation disapproval resolution'' means only a resolution of either House of Congress which is introduced as provided in subsection (a) with respect to the liquidation of Amtrak.

(2) RESTRUCTURING PLAN.—The term ''restructuring plan'' means a plan to provide for a restructured and rationalized national intercity rail passenger transportation system.

(e) RULES OF SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a liquidation disapproval resolution; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 206. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 is amended by adding at the end the following new subsection:

''(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.''.

SEC. 207. OFFICERS' PAY.

Section 24303(b) is amended by adding at the end the following: ''The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.''.

SEC. 208. EXEMPTION FROM TAXES.

Section 24301(l)(1) is amended—

(1) by striking so much as precedes ''exempt from a tax'' and inserting the following:

''(1) IN GENERAL.—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are'';

(2) by striking ''tax or fee imposed'' and all that follows through ''levied on it'' and inserting ''tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom''; and

(3) by amending the last sentence thereof to read as follows: ''In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997.''.

SEC. 209. LIMITATION ON USE OF TAX REFUND.

(a) IN GENERAL.—Amtrak may not use any amount received under section 977 of the Taxpayer Relief Act of 1997—

(1) for any purpose other than making payments to non-Amtrak States (pursuant to section 977(c) of that Act), or the financing of qualified expenses (as that term is defined in section 977(e)(1) of that Act); or

(2) to offset other amounts used for any purpose other than the financing of such expenses.

(b) REPORT BY ARC.—The Amtrak Reform Council shall report quarterly to the Congress on the use of amounts received by Amtrak under section 977 of the Taxpayer Relief Act of 1997.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) AMENDMENT.—Section 24104(a) is amended to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

''(1) $1,138,000,000 for fiscal year 1998;

''(2) $1,058,000,000 for fiscal year 1999;

''(3) $1,023,000,000 for fiscal year 2000;

''(4) $989,000,000 for fiscal year 2001; and

''(5) $955,000,000 for fiscal year 2002,

for the benefit of Amtrak for capital expenditures under chapters 243, 247, and 249 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.''.

(b) AMTRAK REFORM LEGISLATION.—This Act constitutes Amtrak reform legislation within the

meaning of section 977(f)(1) of the Taxpayer Relief Act of 1997.

TITLE IV—MISCELLANEOUS

SEC. 401. STATUS AND APPLICABLE LAWS.

Section 24301 is amended—

(1) by striking ''rail carrier under section 10102'' in subsection (a)(1) and inserting ''railroad carrier under section 20102(2) and chapters 261 and 281''; and

(2) by amending subsection (c) to read as follows:

''(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11301, 11322(a), 11502, and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.''.

SEC. 402. WASTE DISPOSAL.

Section 24301(m)(1)(A) is amended by striking ''1996'' and inserting ''2001''.

SEC. 403. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 and the item relating thereto in the table of sections for chapter 243 are repealed.

SEC. 404. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 and the item relating thereto in the table of sections for chapter 243 are repealed.

SEC. 405. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.

(a) REPEAL.—Section 24903 is repealed and the table of sections for chapter 249 is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 is amended—

(A) by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a) and subsections (e) through (m) as subsections (b) through (j), respectively; and

(B) in subsection (j), as so redesignated by subparagraph (A) of this paragraph, by striking ''(m)''.

(2) Section 24904(a) is amended—

(A) by inserting ''and'' at the end of paragraph (6);

(B) by striking ''; and'' at the end of paragraph (7) and inserting a period; and

(C) by striking paragraph (8).

SEC. 406. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—

(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements required by the Americans With Disabilities Act of 1990 at any station jointly used by Amtrak and a commuter authority.

(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.

(b) CONFORMING AMENDMENT.—Section 24307 is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 407. DEFINITIONS.

Section 24102 is amended—

(1) by striking paragraphs (2) and (11);

(2) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively; and

(3) by inserting '', including a unit of State or local government,'' after ''means a person'' in paragraph (7), as so redesignated.

SEC. 408. NORTHEAST CORRIDOR COST DISPUTE.

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

SEC. 409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

(a) AMENDMENT.—

(1) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''Amtrak,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect at the beginning of the first fiscal year after a fiscal year for which Amtrak receives no Federal subsidy.

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The preceding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

(c) FEDERAL SUBSIDY.—

(1) ASSESSMENT.—In any fiscal year for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak's operations and conduct an assessment similar to the assessment required by section 202(a). The Inspector General shall report the results of the review and assessment to—

(A) the President of Amtrak;

(B) the Secretary of Transportation;

(C) the United States Senate Committee on Appropriations;

(D) the United States Senate Committee on Commerce, Science, and Transportation;

(E) the United States House of Representatives Committee on Appropriations; and

(F) the United States House of Representatives Committee on Transportation and Infrastructure.

(2) REPORT.—The report shall be submitted, to the extent practicable, before any such committee reports legislation authorizing or appropriating funds for Amtrak for capital acquisition, development, or operating expenses.

(3) SPECIAL EFFECTIVE DATE.—This subsection takes effect 1 year after the date of enactment of this Act.

SEC. 410. INTERSTATE RAIL COMPACTS.

(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(1) retaining an existing service or commencing a new service;

(2) assembling rights-of-way; and

(3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including communications, signals, and other systems.

(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for Amtrak);

(3) on such terms and conditions as the States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law.

SEC. 411. BOARD OF DIRECTORS.

(a) AMENDMENT.—Section 24302 is amended to read as follows:

''§ 24302. Board of Directors

''(a) REFORM BOARD.—

''(1) ESTABLISHMENT AND DUTIES.—The Reform Board described in paragraph (2) shall assume the responsibilities of the Board of Directors of Amtrak by March 31, 1998, or as soon thereafter as at least 4 members have been appointed and qualified. The Board appointed under prior law shall be abolished when the Reform Board assumes such responsibilities.

''(2) MEMBERSHIP.—(A)(i) The Reform Board shall consist of 7 voting members appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years.

''(ii) Notwithstanding clause (i), if the Secretary of Transportation is appointed to the Reform Board, such appointment shall not be subject to the advice and consent of the Senate. If appointed, the Secretary may be represented at Board meetings by his designee.

''(B) In selecting the individuals described in subparagraph (A) for nominations for appointments to the Reform Board, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.

''(C) Appointments under subparagraph (A) shall be made from among individuals who—

''(i) have technical qualification, professional standing, and demonstrated expertise in the fields of transportation or corporate or financial management;

''(ii) are not representatives of rail labor or rail management; and

''(iii) in the case of 6 of the 7 individuals selected, are not employees of Amtrak or of the United States.

''(D) The President of Amtrak shall serve as an ex officio, nonvoting member of the Reform Board.

''(3) CONFIRMATION PROCEDURE IN SENATE.—

''(A) This paragraph is enacted by the Congress—

''(i) as an exercise of the rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a motion to discharge; and it supersedes other rules only to the extent that it is inconsistent therewith; and

''(ii) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

''(B) If, by the first day of June on which the Senate is in session after a nomination is submitted to the Senate under this section, the committee to which the nomination was referred has not reported the nomination, then it shall be discharged from further consideration of the nomination and the nomination shall be placed on the Executive Calendar.

''(C) It shall be in order at any time thereafter to move to proceed to the consideration of the nomination without any intervening action or debate.

''(D) After no more than 10 hours of debate on the nomination, which shall be evenly divided between, and controlled by, the Majority Leader and the Minority Leader, the Senate shall proceed without intervening action to vote on the nomination.

''(b) BOARD OF DIRECTORS.—Five years after the establishment of the Reform Board under subsection (a), a Board of Directors shall be selected—

''(1) if Amtrak has, during the then current fiscal year, received Federal assistance, in accordance with the procedures set forth in subsection (a)(2); or

''(2) if Amtrak has not, during the then current fiscal year, received Federal assistance, pursuant to bylaws adopted by the Reform Board (which shall provide for employee representation), and the Reform Board shall be dissolved.

''(c) AUTHORITY TO RECOMMEND PLAN.—The Reform Board shall have the authority to recommend to the Congress a plan to implement the recommendations of the 1997 Working Group on Inter-City Rail regarding the transfer of Amtrak's infrastructure assets and responsibilities to a new separately governed corporation.''.

(b) EFFECT ON AUTHORIZATIONS.—If the Reform Board has not assumed the responsibilities

of the Board of Directors of Amtrak before July 1, 1998, all provisions authorizing appropriations under the amendments made by section 301(a) of this Act for a fiscal year after fiscal year 1998 shall cease to be effective. The preceding sentence shall have no effect on funds provided to Amtrak pursuant to section 977 of the Taxpayer Relief Act of 1997.

SEC. 412. EDUCATIONAL PARTICIPATION.

Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety.

SEC. 413. REPORT TO CONGRESS ON AMTRAK BANKRUPTCY.

Within 120 days after the date of enactment of this Act, the Comptroller General shall submit a report identifying financial and other issues associated with an Amtrak bankruptcy to the United States Senate Committee on Commerce, Science, and Transportation and to the United States House of Representatives Committee on Transportation and Infrastructure. The report shall include an analysis of the implications of such a bankruptcy on the Federal government, Amtrak's creditors, and the Railroad Retirement System.

SEC. 414. AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS.

If, at any time, during a fiscal year in which Amtrak receives Federal assistance, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—

(1) the name of the individual or firm involved;

(2) the purpose of the contract or arrangement; and

(3) the amount and nature of Amtrak's financial obligation under the contract.

This section applies only to contracts, renewals or extensions of contracts, or arrangements entered into after the date of the enactment of this Act.

SEC. 415. FINANCIAL POWERS.

(a) CAPITALIZATION.—(1) Section 24304 is amended to read as follows:

"§ 24304. Employee stock ownership plans

''In issuing stock pursuant to applicable corporate law, Amtrak is encouraged to include employee stock ownership plans.''.

(2) The item relating to section 24304 in the table of sections of chapter 243 is amended to read as follows:

''24304. Employee stock ownership plans.''.

(b) REDEMPTION OF COMMON STOCK.—Amtrak shall, before October 1, 2002, redeem all common stock previously issued, for the fair market value of such stock.

(c) ELIMINATION OF LIQUIDATION PREFERENCE AND VOTING RIGHTS OF PREFERRED STOCK.—(1)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no liquidation preference.

(B) Subparagraph (A) shall take effect 90 days after the date of the enactment of this Act.

(2)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no voting rights.

(B) Subparagraph (A) shall take effect 60 days after the date of the enactment of this Act.

(d) STATUS AND APPLICABLE LAWS.—(1) Section 24301(a)(3) is amended by inserting '', and shall not be subject to title 31'' after ''United States Government''.

(2) Section 9101(2) of title 31, United States Code, relating to Government corporations, is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (L) as subparagraphs (A) through (K), respectively.

Mr. LOTT. I move that the Senate concur in the House amendment.

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

The motion was agreed to.

NO ELECTRONIC THEFT (NET) ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2265 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2265) to amend the provisions of title 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I rise in support of passage of H.R. 2265, The No Electronic Theft [NET] Act. This bill plugs the ''LaMacchia Loophole'' in criminal copyright enforcement.

Current sec. 506(a) of the Copyright Act contains criminal penalties for willful copyright infringement for ''commercial advantage or private financial gain.'' In U.S. versus LaMacchia, 871 F. Supp. 535 (D. Mass. 1994), defendant, a graduate student attending MIT, encouraged lawful purchasers of copyrighted computer games and other software to upload these works via a special password to an electronic bulletin board on the Internet. The defendant then transferred the works to another electronic address and urged other persons with access to a second password to download the materials for personal use without authorization by or compensation to the copyright owners. Because the defendant never benefited financially from any of these transactions, the current criminal copyright infringement could not be used. Furthermore, the court held that neither could the federal wire fraud statute, since Congress never envisioned protecting copyrights under that statute. For persons with few assets, civil liability is not an adequate deterrent.

It is obvious that great harm could be done to copyright owners if this practice were to become widespread. Significant losses to copyright holders would undermine the monetary incentive to create which is recognized in our Constitution. Mr. President, I believe that willful, commercial-scale pirating of copyrighted works, even when the pirate receives no monetary reward, ought to be nipped in the bud. This bill does that.

I will admit, Mr. President, that I initially had concerns about this bill. I was afraid that the language was so broad that the net could be cast too widely—pardon the pun—so that minor offenders or persons who honestly believed that they had a legitimate right to engage in the behavior prohibited by the bill would be swept in. What of the educator who feels that his or her action is a fair use of the copyrighted work? Although the bill is not failsafe, because of the severity of the potential losses to copyright owners from widespread LaMacchia-like behavior and the little time remaining in this session, on balance I was persuaded to support the bill.

I place great store by the ''willfulness'' requirement in the bill. Although there is on-going debate about what precisely is the ''willfulness'' standard in the Copyright Act—as the House Report records—I submit that in the LaMacchia context ''willful'' ought to mean the intent to violate a known legal duty. The Supreme Court has given the term ''willful'' that construction in numerous cases in the past 25 years, for example: U.S. versus Bishop, 412, U.S. 346 (1973); U.S. versus Pomponio, 429 U.S. 987 (1976); Cheek versus U.S., 498 U.S. 192 (1991); and Ratzlaf versus U.S., 510 U.S. 135 (1994). As Chairman of the Judiciary Committee, that is the interpretation that I give to this term. Otherwise, I would have objected and not allowed this bill to pass by unanimous consent. Under this standard, then, an educator who in good faith believes that he or she is engaging in a fair use of copyrighted material could not be prosecuted under the bill.

I am also relying upon the good sense of prosecutors and judges. Again, the purpose of the bill is to prosecute commercial-scale pirates who do not have commercial advantage or private financial gain from their illegal activities. But if an over-zealous prosecutor should bring and win a case against a college prankster, I am confident that the judge would exercise the discretion that he or she may have under the Sentencing Guidelines to be lenient. If the practical effect of the bill turns out to be draconian, we may have to revisit the issue.

In addition to my concern that the bill's scope might be too broad, I wanted to make sure that the language of the bill would not prejudice in any way the debate about the copyright liability of on-line and Internet service providers. Mr. President, there are good arguments on both sides of the issue, and I will shortly begin the process of bringing the parties together to try to obtain a mutually agree-upon solution to this problem. It is my understanding that representatives of the OSP/ISP community and the fair use community were consulted during the passage of the bill in the House. This tends to confirm my judgment that the bill was not intended to affect the OSP/ISP liability debate.

Finally, Mr. President, I would like to point out two areas that are susceptible to interpretation mischief. First,

the bill amends the term ''financial gain'' as used in the Copyright Act to include ''receipt, or expectation of receipt, of anything of value, including receipt of other copyrighted works.'' The intent of the change is to hold criminally liable those who do not receive or expect to receive money but who receive tangible value. It would be contrary to the intent of the provision, according to my understanding, if ''anything of value'' would be so broadly read as to include enhancement of reputation or value remote from the criminal act, such as a job promotion.

Second, I am concerned about the interplay between criminal liability for ''reproduction'' in the bill and the commonly-held view that the loading of a computer program into random access memory [RAM] is a reproduction for purposes of the Copyright Act. Because most shrink-wrap licenses purport to make the purchaser of computer software a licensee and not an owner of his or her copy of the software, the ordinary purchaser of software may not be able to take advantage of the exemption provided by sec. 117, allowing the ''owner'' of a copy to reproduce the work in order to use it in his or her computer.

Many shrink-wrap licenses limit the purchaser to making only a single backup copy of his or her software. Thus, under a literal reading of the bill, the ordinary purchaser of computer software who loaded the software enough times in the 180-day period to reach the more-than-$1,000 threshold may be a criminal. This is, of course, not the intent of the bill. Clearly, this kind of copying was not intended to be criminalized.

Additionally, Congress has long recognized that it is necessary to make incidental copies of digital works in order to use them on computers. Programs or data must be transferred from a floppy disk to a hard disk or from a hard disk into RAM as a necessary step in their use. Modern operating systems swap data between RAM and hard disk to use the computer memory more efficiently. Given its purpose, it is not the intent of this bill to have the incidental copies made by the user of digital work be counted more than once in computing the total retail value of the infringing reproductions.

As you can see, Mr. President, I do not believe this is the perfect bill, but it is a good bill that addresses a serious problem that has the potential of very soon undermining copyright in many works, not just computer software. I am confident that prosecutors and the courts will make their decisions with the purpose of the bill in mind—the elimination of willful, commercial-scale pirating of copyrighted works.

Mr. LEAHY. Mr. President, America's founders recognized and valued the creativity of this Nation's citizens such that intellectual property rights are rooted in the Constitution. Article I, section 8, clause 8 of the Constitution states that ''The Congress shall have power * * * [t]o promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.'' The Continental Congress proclaimed, ''Nothing is more properly a man's own than the fruit of his study.''

Protecting intellectual property rights is just as important today as it was when America was a fledgling nation.

It is for this reason I am pleased that the Senate is considering H.R. 2265, the ''No Electronic Theft [NET] Act of 1997.'' I introduced the first legislation on this subject in 1995. The bill was the ''Criminal Copyright Improvement Act of 1995,'' and it stood as the only legislation on this issue in the 104th Congress. I then made some changes to that bill and introduced it this session as the ''Criminal Copyright Improvement Act of 1997,'' S. 1044. Senator KYL is an original cosponsor of S. 1044 and I thank him for his support.

Like the Criminal Copyright Improvement Act of 1997, the NET Act of 1997 would close a significant loophole in our copyright law and enhance the Government's ability to bring criminal charges in certain cases of willful copyright infringement. By insuring better protection of the creative works available online, this bill will also encourage the continued growth of the Internet and our National Information Infrastructure. It will encourage the ingenuity of the American people, and will send a powerful message to intellectual property pirates and thieves that we will not tolerate theft.

For a criminal prosecution under current copyright law, a defendant's willful copyright infringement must be ''for purposes of commercial advantage or private financial gain.'' Not-for-profit or noncommercial copyright infringement is not subject to criminal law enforcement, no matter how egregious the infringement or how great the loss to the copyright holder. This presents an enormous loophole in criminal liability for willful infringers who can use digital technology to make exact copies of copyrighted software and other digitally encoded works, and then use computer networks for quick, inexpensive and mass distribution of pirated, infringing works. The NET Act would close this legal loophole.

United States versus LaMacchia, 871 F. Supp. 535 (D. Mass. 1994), is an example of the problem this criminal copyright bill would fix. In that case, the defendant had set up computer bulletin board systems on the Internet. Users posted and downloaded copyrighted software programs. This resulted in an estimated loss to the copyright holders of over $1 million over a 6-week period. Since the defendant apparently did not profit from the software piracy, the Government could not prosecute him under criminal copyright law and instead charged him with wire fraud. The District Court described the student's conduct ''at best * * * as irresponsible, and at worst as nihilistic, self-indulgent, and lacking in any fundamental sense of values.''

Nevertheless, the Court dismissed the indictment in LaMacchia because it viewed copyright law as the exclusive authority for prosecuting criminal copyright infringement. The Court expressly invited Congress to revisit the copyright law and make any necessary adjustments, stating:

> Criminal as well as civil penalties should probably attach to willful, multiple infringements of copyrighted software even absent a commercial motive on the part of the infringer. One can envision ways that the copyright law could be modified to permit such prosecution. But, ''[i]t is the legislature, not the Court which is to define a crime, and ordain its punishment.''

I introduced the Criminal Copyright Improvement Act of 1995 on August 4, 1995 in response to this problem. The NET Act is the result of our efforts. It would ensure redress in the future for flagrant, willful copyright infringements in the following ways: First, it amends the term ''financial gain'' as used in the Copyright Act to include ''receipt, or expectation of receipt, or anything of value, including the receipt of other copyrighted works.'' This revision would make clear that ''financial gain'' includes bartering for, and the trading of, pirated software.

Second, it amends Section 506(a) of the Copyright Act to provide that any person who infringes a copyright willfully by the reproduction or distribution, including by electronic means, during any 180-day period, of one or more copies or phonorecords of one or more copyrighted works with a total retail value of more than $1,000, shall be subject to criminal liability.

A misdemeanor offense under the bill is defined as an offense in which an individual reproduces or distributes one or more copies or phonorecords of one or more copyrighted works with a total value of more than $1,000.

The felony threshold under the bill is defined as an offense in which an individual reproduces or distributes 10 or more copies of phonorecords of 1 or more copyrighted works with a total retail value of $2,500 or more.

Section (2)(b) of the bill clarifies that for purposes of subsection 506(a) of the Copyright Act only, ''willful infringement'' requires more than just evidence of making an unauthorized copy of a work. This clarification was included to address the concerns expressed by libraries and Internet access to services because the standard of ''willfulness'' for criminal copyright infringement is not statutorily defined and the court's interpretation have varied somewhat among the Federal circuits.

This clarification does not change the current interpretation of the word ''willful'' as developed by case law and as applied by the Department of Justice, nor does it change the definition of ''willful'' as it is used elsewhere in the Copyright Act.

Third, the bill requires that any criminal proceeding brought under the Copyright Act must commence within 5 years from the time the cause of action arose. The current limit, as contained in section 507(a) of the Copyright Act, is 3 years. This brings copyright crimes into conformance with the statute of limitations for other criminal acts under title 18 of the United States Code.

Fourth, the bill would insert new subsections in title 18 of the United States Code requiring that victims of offenses concerning unauthorized fixation and trafficking of live musical performances and victims of offenses concerning trafficking in counterfeit goods or services be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

The NET Act reflects the recommendations and hard work of the Department of Justice and the Copyright Office. Specifically, Scott Charney and David Green of the Department of Justice and Marybeth Peters, Shira Perlmutter, and Jule Sigall of the Copyright Office helped me on this legislation. The Department of Justice and the Copyright Office provided valuable input as far back as 3 years ago, when I introduced the first legislation on this subject, and they have worked with me through the drafting of this year's Senate bill and with me and all the interested parties on this year's House version to ensure that the final product was one that could be widely accepted. In fact, just today the Senate received a letter from the Department of Justice providing its views on the NET Act and strongly supporting the enactment of this legislation.

I also want to thank Mr. HYDE, Mr. CONYERS, Mr. COBLE, Mr. FRANK, and Mr. GOODLATTE for their fine work on this matter.

By passing this legislation, we send a strong message that we value intellectual property, as abstract and arcane as it may be, in the same way that we value the real and personal property of our citizens. Just as we will not tolerate the theft of software, CD's, books, or movie cassettes from a store, so will we not permit the stealing of intellectual property over the Internet.

I urge my colleagues to support H.R. 2265, and I ask unanimous consent that a letter from the U.S. Department of Justice dated November 7, 1997, be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, November 7, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, This provides the views of the Department of Justice on H.R. 2265, the ''No Electronic Theft (NET) Act,'' which was passed by the House of Representatives on November 4, 1997, and which we understand may shortly be considered in the Senate. We strongly support enactment of this legislation.

As introduced, H.R. 2265 built upon, and closely resembled, S. 1044 and its predecessor bill that was introduced in the 104th Congress. The Department of Justice testified in support of H.R. 2265 while the bill was being considered by the House Judiciary Committee. We worked extensively with the bill's sponsors to ensure that it would meet the concerns of interested parties, including the Department of Justice, the copyright community, and those non-profit organizations and Internet Service Providers concerned about the possibility that the new legislation might sweep too broadly. The result, in our view, is an excellent bill that protects copyrights in the digital age in a careful and balanced manner. The House-passed bill accomplishes several important goals, including:

Permitting the Department to prosecute large-scale illegal reproduction or distribution of copyrighted works where the infringers act without a discernible profit motive, while making clear that small-scale noncommercial copying (copyrighted works with a total retail value of less than $1,000) is not prosecutable under federal law;

Clarifying that ''willful'' infringement must consist of evidence of more that the mere intentional reproduction or distribution of copyrighted products;

Defining ''financial gain'' to include the ''receipt, or expectation of receipt, of anything of value, including the receipt of other copyrighted works,'' to ensure that persons who illegally traffic in copyrighted works by using barter rather than cash are covered by the statute;

Clarifying that ''reproduction or distribution'' includes electronic as well as tangible means;

Extending the statute of limitations from three to five years, bringing the criminal copyright statute into line with most other criminal statutes;

Establishing a recidivist provision that raises penalties for second or subsequent felony copyright offenses;

Recognizing victims' rights by allowing the producers of pirated works to provide a victim impact statement to the sentencing court; and

Enhancing the deterrent power of the copyright criminal laws by directing the Sentencing Commission to amend the Sentencing guideline for copyright and trademark infringement to allow courts to impose sentence based on the retail value of the good infringed upon, rather than the often lower value of the infringing good.

The Department of Justice believes that the differences between S. 1044, as introduced, and H.R. 2265, as passed by the House of Representatives, are not significant. We therefore recommend that the Senate expedite final passage of this important piece of legislation by adopting the House-passed bill before the end of the first session of the 105th Congress.

Please do not hesitate to contact us if we may be of additional assistance in connection with this or any other matter. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

Mr. KYL. Mr. President, I am proud to support H.R. 2265, the No Electronic Theft [NET] Act which is the companion bill to S. 1044, the Criminal Copyright Improvement Act of 1997, introduced by Senator LEAHY and myself.

H.R. 2265 passed the House of Representatives earlier this week and now has the opportunity to obtain Senate approval and be sent to the President before we adjourn for the session. The bill is supported by the Department of Justice, the U.S. Copyright Office, and the Software Publishers Association, which is the leading trade association of the computer software industry, representing over 1,200 companies that develop and market software for entertainment, business, education, and the Internet.

H.R. 2265 will help combat software piracy by closing a major loophole in federal law, which was highlighted by the case of *United States* v. *LaMacchia*, 871 F.Supp. 535 (D. Mass. 1994). Under current law, a showing of financial gain is required to prove criminal copyright infringement. In LaMacchia, the defendant maliciously pirated software which resulted in an estimated loss to the copyright holders of over $1 million in just over 6 weeks. Because LaMacchia did not profit from the software piracy, he could not be prosecuted under criminal copyright law.

Because much software piracy on the Internet apparently occurs without the exchange of money, the so-called ''LaMacchia loophole'' discourages law enforcement from taking action against willful, commercial-scale software pirates out to gain notoriety, not money.

In sum, this bill extends criminal infringement of copyright to include any person—not just those who act for purposes of commercial advantage or private financial gain—who willfully infringe a copyright. Specifically, the bill: (1) expands the definition of ''financial gain'' to include the expectation of receipt of anything of value—including the receipt of other copyrighted works; (2) sets penalties for willfully infringing a copyright by reproducing or distributing (including electronically), during any 180-day period, one or more copies of one or more copyrighted works with a total retail value of more than $1,000; (3) extends the statute of limitations for criminal copyright infringement from three to five years; (4) punishes recidivists more severely; (5) extends victims' rights with regard to criminal copyright infringement; and (6) directs the Sentencing Commission to determine sufficiently stringent guidelines to deter these types of crimes.

H.R. 2265 is needed to help protect the interests of the entire software industry by protecting against the unauthorized copying and distribution of

computer programs. In 1996, piracy cost the software industry over $2 billion in the United States and over $11 billion around the world.

Mr. President, the United States is the world's leader in intellectual property. We export billions of dollars of copyrighted works every year. Our creative community is a bulwark of our national economy. By addressing the flaw in our copyright law that LaMacchia has brought to light, H.R. 2265 sends the strong message that we value the contributions of writers, artists, and other creators, and will not tolerate the theft of their intellectual endeavors.

I urge my colleagues to join me in supporting this important piece of legislation.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

The bill (H.R. 2265) was read the third time and passed.

OTTAWA AND CHIPPEWA JUDGMENT FUNDS DISTRIBUTION ACT OF 1997

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 1604) to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 19–E, 58, 368, and 18–R before the Indian Claims Commission.

Resolved, That the House agree to the amendments of the Senate numbered 1–60, 62 and 63 to the bill (H.R. 1604) entitled ''An Act to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18–E, 58, 364, and 18–R before the Indian Claims Commission.''.

Resolved, That the House disagree to the amendment of Senate numbered 61 to the above-entitled bill.

Mr. LOTT. Mr. President, I move that the Senate recede from its amendment No. 61.

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

The motion was agreed to.

RELIEF OF SYLVESTER FLIS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1172.

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

The legislative clerk read as follows:

A bill (S. 1172) for the relief of Sylvester Flis.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 1172) was read the third time and passed, as follows:

S. 1172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANT OF NATURALIZATION TO SYLVESTER FLIS.

(a) IN GENERAL.—Notwithstanding any other provision of law, Sylvester Flis shall be naturalized as a citizen of the United States upon the filing of the appropriate application and upon being administered the oath of renunciation and allegiance in an appropriate ceremony pursuant to section 337 of the Immigration and Nationality Act.

(b) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply if the application for naturalization is filed with appropriate fees within 1 year after the date of the enactment of this Act.

AMENDING THE FEDERAL CHARTER FOR GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3025, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3025) to amend the Federal charter for Group Hospitalization and Medical Services, Inc., and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 3025) was read a third time and passed.

LOBBYING DISCLOSURE TECHNICAL AMENDMENTS ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 283, S. 758.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 758) to make certain technical corrections to the Lobbying Disclosure Act of 1995.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 758) was read a third time and passed, as follows:

S. 758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''Lobbying Disclosure Technical Amendments Act of 1997''.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Lobbying Disclosure Act of 1995.

SEC. 2. DEFINITION OF COVERED EXECUTIVE BRANCH OFFICIAL.

Section 3(3)(F) (2 U.S.C. 1602(3)(F)) is amended by striking ''7511(b)(2)'' and inserting ''7511(b)(2)(B)''.

SEC. 3. CLARIFICATION OF EXCEPTION TO LOBBYING CONTACT.

(a) CERTAIN COMMUNICATIONS.—Section 3(8)(B)(ix) (2 U.S.C. 1602(8)(B)(ix)) is amended by inserting before the semicolon the following: '', including any communication compelled by a Federal contract grant, loan, permit, or license''.

(b) DEFINITION OF ''PUBLIC OFFICIAL''.—Section 3(15)(F) (2 U.S.C. 1602(15)(F)) is amended by inserting '', or a group of governments acting together as an international organization'' before the period.

SEC. 4. ESTIMATES BASED ON TAX REPORTING SYSTEM.

(a) SECTION 15(a).—Section 15(a) (2 U.S.C. 1610(a)) is amended—

(1) by striking ''A registrant'' and inserting ''A person, other than a lobbying firm,''; and

(2) by amending paragraph (2) to read as follows:

''(2) for all other purposes consider as lobbying contacts and lobbying activities only—

''(A) lobbying contacts with covered legislative branch officials (as defined in section 3(4)) and lobbying activities in support of such contacts; and

''(B) lobbying of Federal executive branch officials to the extent that such activities are influencing legislation as defined in section 4911(d) of the Internal Revenue Code of 1986.''.

(b) SECTION 15(b).—Section 15(b) (2 U.S.C. 1610(b)) is amended—

(1) by striking ''A registrant that is subject to'' and inserting ''A person, other than a lobbying firm, who is required to account and does account for lobbying expenditures pursuant to''; and

(2) by amending paragraph (2) to read as follows:

''(2) for all other purposes consider as lobbying contacts and lobbying activities only—

''(A) lobbying contacts with covered legislative branch officials (as defined in section 3(4)) and lobbying activities in support of such contacts; and

''(B) lobbying of Federal executive branch officials to the extent that amounts paid or costs incurred in connection with such activities are not deductible pursuant to section 162(e) of the Internal Revenue Code of 1986.''.

(c) SECTION 5(c).—Section 5(c) (2 U.S.C. 1604(c)) is amended by striking paragraph (3).

SEC. 5. EXEMPTION BASED ON REGISTRATION UNDER LOBBYING ACT.

Section 3(h) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 613(h)) is amended by striking ''is required to register and does register'' and inserting ''has engaged in lobbying activities and has registered''.

ACTION ON MEASURE VITIATED AND MEASURE INDEFINITELY POSTPONED—S. 1292

Mr. LOTT. Mr. President, I ask unanimous consent that passage of S. 1292 be vitiated and the bill be indefinitely postponed.

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

FAA RESEARCH, ENGINEERING, AND DEVELOPMENT AUTHORIZATION ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1271.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1271) to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 through 2000, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''FAA Research, Engineering, and Development Authorization Act of 1997''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) of title 49, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2)(J);

(2) by striking the period at the end of paragraph (3)(J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

''(4) for fiscal year 1998, $229,673,000, including—

''(A) $16,379,000 for system development and infrastructure projects and activities;

''(B) $27,089,000 for capacity and air traffic management technology projects and activities;

''(C) $23,362,000 for communications, navigation, and surveillance projects and activities;

''(D) $16,600,000 for weather projects and activities;

''(E) $7,854,000 for airport technology projects and activities;

''(F) $49,202,000 for aircraft safety technology projects and activities;

''(G) $56,045,000 for system security technology projects and activities;

''(H) $27,137,000 for human factors and aviation medicine projects and activities;

''(I) $2,891,000 for environment and energy projects and activities; and

''(J) $3,114,000 for innovative/cooperative research projects and activities.''.

SEC. 3. RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.

(a) PROGRAM.—Section 48102 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(h) RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.—

''(1) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish a program to utilize undergraduate and technical colleges, including Historically Black Colleges and Universities and Hispanic Serving Institutions, in research on subjects of relevance to the Federal Aviation Administration. Grants may be awarded under this subsection for—

''(A) research projects to be carried out at primarily undergraduate institutions and technical colleges;

''(B) research projects that combine research at primarily undergraduate institutions and technical colleges with other research supported by the Federal Aviation Administration; or

''(C) research on future training requirements on projected changes in regulatory requirements for aircraft maintenance and power plant licensees.

''(2) NOTICE OF CRITERIA.—Within 6 months after the date of the enactment of the FAA Research, Engineering, and Development Authorization Act of 1997, the Administrator of the Federal Aviation Administration shall establish and publish in the Federal Register criteria for the submittal of proposals for a grant under this subsection, and for the awarding of such grants.

''(3) PRINCIPAL CRITERIA.—The principal criteria for the awarding of grants under this subsection shall be—

''(A) the relevance of the proposed research to technical research needs identified by the Federal Aviation Administration;

''(B) the scientific and technical merit of the proposed research; and

''(C) the potential for participation by undergraduate students in the proposed research.

''(4) COMPETITIVE, MERIT-BASED EVALUATION.—Grants shall be awarded under this subsection on the basis of evaluation of proposals through a competitive, merit-based process.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 48102(a) of title 49, United States Code, as amended by this Act, is further amended by inserting '', of which $750,000 shall be for carrying out the grant program established under subsection (h)'' after ''projects and activities'' in paragraph (4)(J).

SEC. 4. LIMITATION ON APPROPRIATIONS.

No sums are authorized to be appropriated to the Administrator of the Federal Aviation Administration for fiscal year 1998 for the Federal Aviation Administration Research, Engineering, and Development account, unless such sums are specifically authorized to be appropriated by the amendments made by this Act.

SEC. 5. NOTICE OF REPROGRAMMING.

If any funds authorized by the amendments made by this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committees on Science and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 6. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the Federal Aviation Administration should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Federal Aviation Administration posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Federal Aviation Administration is unable to correct in time.

Mr. LOTT. Mr. President, Senators MCCAIN and HOLLINGS have a technical amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. MCCAIN, for himself and Mr. HOLLINGS, proposes an amendment numbered 1638.

Mr. LOTT. 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 12, line 10, strike ''$229,673,000,'' and insert ''$226,800,000,''.

On page 12, line 25, strike ''$56,045,000'' and insert ''$53,759,000''.

On page 13, line 1, strike ''$27,137,000'' and insert ''$26,550,000''.

On page 13, line 6, strike ''activities.'.'' and insert ''activities; and''

On page 13, between lines 6 and 7, insert the following:

''(5) for fiscal year 1999, $229,673,000.''.

On page 13, line 17, strike ''leges'' and insert ''leges, including Historically Black Colleges and Universities and Hispanic Serving Institutions,''.

On page 15, strike lines 11 through 17.

On page 15, line 18, strike ''**SEC. 5. NOTICE OF REPROGRAMMING.**'' and insert ''**SEC. 4. NOTICES.**''.

On page 15, line 19, insert ''(a) REPROGRAMMING.—'' before ''If''.

On page 16, between lines 2 and 3, insert the following:

(b) NOTICE OF REORGANIZATION.—The Administrator of the Federal Aviation Administration shall provide notice to the Committees on Science, Transportation and Infrastructure, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 30 days before any major reorganization (as determined by the Administrator) of any program of the Federal Aviation Administration for which funds are authorized by this Act.

On page 16, line 3, strike ''**SEC. 6.**'' and insert ''**SEC. 5.**''.

Amend the title so as to read ''A Bill to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 and 1999, and for other purposes.''.

Mr. MCCAIN. Mr. President, I am pleased to join with my distinguished colleagues, Senators GORTON, HOLLINGS and FORD, in approving this amendment to authorize the Federal Aviation Administration [FAA] Research, Engineering, and Development [RE&D] account for fiscal years 1998 and 1999. The FAA's RE&D account is used to finance

projects to improve the safety, security, capacity, and efficiency of the U.S. aviation system.

FAA research and development activities help to provide the advancements and innovations that are needed to keep the U.S. aviation system the best in the world. Our nation's ability to have a strong aviation-related research and development program directly impacts our success in the global market and our standard of living.

This legislation authorizes the funding needed for ongoing or planned FAA RE&D projects that will provide important benefits for the U.S. aviation system and its users. The FAA RE&D program will fund projects to determine how limited airport and airspace capacity can meet ever increasing demands, how aviation security can be improved, and how flight safety concerns can be addressed.

As my colleagues know, I have been particularly concerned about ensuring that the FAA has an adequate level of funding for security research and development. The threat of terrorism against the United States has increased and aviation is, and will remain, an attractive terrorist target. That is why this legislation provides $54 million for security technology research and development. This figure represents almost one-fourth of the total authorized funding level, and is $10 million above the appropriations level.

Mr. President, Senator HOLLINGS, Aviation Subcommittee Chairman Senator GORTON, Senator FORD, and I have worked hard with the FAA and our colleagues in the House to craft legislation that can provide the FAA with the funding it needs for critical research and development projects, while also being mindful of our tight federal budget. I urge my colleagues to approve this legislation by unanimous consent.

Mr. HOLLINGS. Mr. President, when TWA flight 800 exploded over the coast of Long Island on July 17, 1997, 230 people perished. They left behind people who loved and cared about them. They left a void in many people's lives. When a USAirways jet crashed in Charlotte in July 1994, 37 people died, including many from my State. The pain and suffering those families suffered is heartbreaking.

H.R. 1271, the FAA Research, Engineering, and Development Authorization Act of 1997, authorizes more than 4450 million to conduct basic aviation safety research, with one primary goal—to reduce the likelihood that another family will lose a loved one in an aviation accident.

When we talk about safety, it all begins with two factors—leadership and research. The U.S. today is the world's leader in aviation safety. However, that is not enough. We must maintain that leadership and continue to pursue the best means to avoid aviation disasters.

Over the last several years, we have stressed the need to improve security. New machines continue to be tested and improved. This bill furthers that process. We also must remain vigilant about other areas to improve safety, like controlled flight into terrain and human factors. All too often an accident is a function of a human error. The error can be the result of technology design or human judgment. Research remains the key to making adjustments so that our families do not have to experience what the families of TWA flight 800 or the USAirways Charlotte flight had to endure.

The bill also recognizes that we must work with our colleges and technical schools to develop programs to meet challenges of the future. Our Nation's aircraft maintenance program will be changing. Our air traffic control workforce and maintenance workforce will be changing with the new equipment scheduled to be installed over the next 5 years. We must remain ahead of the technological curve—working with the schools will facilitate our preparation for change. The administration knows this and has worked with me to address that issue.

We worked hard with the administration on this bill, and it is my understanding that they support the bill. In the area of security, for example, the fiscal year 1998 Transportation Appropriations Act provided $44.225 million. The authorization in H.R. 1271 is more than $11 million more, an amount which will give the FAA flexibility to move funds from one account to another, should it be necessary.

I understand that the FAA may request additional funding for fiscal year 1999 to further its modernization efforts. In addition, more funding for security may be requested, and we will need to consider those requests, if made.

I urge my colleagues to support the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the technical amendment be agreed to.

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

The amendment (No. 1638) was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the committee substitute, as amended, be agreed to.

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

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill, as amended, be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the record.

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

The bill (H.R. 1271), as amended, was read a third time and passed.

The title was amended so as to read:

A Bill to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 and 1999, and for other purposes.

JOHN N. GRIESEMER POST OFFICE BUILDING

Mr. LOTT. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 1254, and further that the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (H.R. 1254) to designate the United States Post Office building located at 1919 West Bennett Street in Springfield, Missouri, as the ''John N. Griesemer Post Office Building.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 1254) was read a third time and passed.

ACQUISITION OF CERTAIN REAL PROPERTY FOR THE LIBRARY OF CONGRESS

Mr. LOTT. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2979, which is at the desk.

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

The clerk will read the report.

The legislative clerk read as follows:

A bill (H.R. 2979) to authorize acquisition of certain real property for the Library of Congress, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FORD. Mr. President, the legislation before us would authorize the Architect of the Capitol to accept a gift of approximately 41 acres of property and buildings in Culpeper, Virginia for use by the Library of Congress as a national audiovisual conservation center. The purchase price of this facility is $5.5 million. The private foundation which has offered to purchase this property and donate it for the Library's use has also agreed to provide the Library with an additional $4.5 million for the renovation of this property, making a total gift of $10 million. The renovations to the property will be made by the Architect of the Capitol, as approved by the appropriate oversight and appropriations committees.

The Library's film collection is currently stored in several Library or government-leased sites. With this gift,

the Library intends to consolidate the storage of its audio-visual collection, specifically its acetate film collection. However, the facility at Culpeper cannot currently house the nitrate-based film collection. While I will not object to passage of this legislation, I am concerned by both the manner in which the Library presented this issue to Congress and by a number of precedent-setting issues this gift raises which have not been fully aired.

It is my understanding that the Library first identified the Culpeper property as a potential site for storage of a portion of its film collection several years ago. And yet, this legislation before us today was shared with my office only last week, and was introduced in the House and Senate over the weekend. While it is not unusual this time of year to see legislation flying past the Congress on its way to the White House for signature, this measure raises a number of concerns that should, and could, have been fully debated by those who ultimately will be responsible to the taxpayer for the cost of its maintenance and upkeep in the years to come.

First, and most importantly, is the issue of whether the government, particularly the Library, should be in the business of acquiring real estate. It is rather ironic that this is being proposed at a time when the leadership in the Congress is calling for privatization of many legislative branch functions and the sale of certain legislative branch properties. It is particularly true of this property which includes about 41 acres, but insufficient buildings and improvements to house all of the Library's audiovisual collection. I don't want to assume what the Library plans to do with all this property, but I got a pretty good idea by reading the study the Library commissioned from Abacus Technology Corporation.

The current buildings on the Culpeper property can house only the acetate film collection. In order to consolidate the nitrate film collection at the Culpeper site, the Abacus study recommends constructing new buildings to house the nitrate collection. And how much would such facilities cost? Over $16 million over the next 4 years. But a hefty building and expansion program is not all that is planned for these 41 acres. The Abacus study describes the Library's vision with regard to this audiovisual center as offering, subject to the approval of Congress, a cost-effective conservation service for other libraries and archives. Whether this will require additional buildings or is included in the Abacus cost estimates already is not disclosed.

A second concern that this issue raises is the ultimate cost to the taxpayer of accepting this gift. According to the Abacus study, the total cost for renovating, maintaining and expanding the Culpeper property over the 25 year life cycle of the facility is $47 million. Other alternatives identified by Abacus and the Library range from about $54 million to $86 million. However, the Abacus study does not include cost estimates for the Architect of the Capitol for the on-going maintenance and repair of the 41 acres of grounds and buildings that would now be owned by the government.

Thirdly, as currently structured, it is not clear how this property and facilities will be managed. By statute, the Architect of the Capitol is responsible for only the structural work on buildings and grounds of Library property, including the maintenance and care of the grounds and certain mechanical equipment. Since this site is over 70 miles away from Washington, it may require that the Architect physically locate maintenance personnel there. But the Architect will not manage these 41 acres and buildings—that will now be the responsibility of the Library—hardly a task they have much experience with. Moreover, as my colleagues know, the Library has its own security force. Presumably, this facility will also need to be secure. However, in recent years, there have been discussions about the possibility of transferring certain exterior security functions of the Library security force to the Capitol Police. I'm not sure I want our Capitol police responsible for taking care of the security of 41 acres in Culpeper.

I appreciate the pressure the Librarian feels to raise private funds to provide core Library functions. However, any gift that the Librarian solicits ultimately becomes the responsibility of the American taxpayers. Before we saddle them with the maintenance, upkeep, and overhead of additional federal buildings and prime real estate, there should an opportunity to fully air these issues. Changes I sought in this legislation will do that, even if after the fact.

Being from Kentucky, I know better than to look a gift horse in the mouth. But being from west Kentucky, which is hog country, I also know a pig-in-a-poke when I see it. The Library may not be asking the American taxpayers to accept a pig-in-a-poke, but with all the unanswered questions, this Culpeper property is pretty darn close to it. I'll be sticking close to the farm over the next year, and as provided by this legislation, will be looking for answers to these questions before approving improvements and expansions on this gift.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements be placed at the appropriate place in the RECORD.

The bill (H.R. 2979) was read the third time, and passed.

EXPRESSING THE SENSE OF CONGRESS RELATIVE TO GERMAN REPARATIONS TO HOLOCAUST SURVIVORS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 138, S. Con. Res. 39.

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

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 39) expressing the sense of the Congress that the German government should expand and simplify its reparations system, provide reparations to Holocaust survivors in Eastern and Central Europe, and set up a fund to help cover the medical expenses of Holocaust survivors.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MOYNIHAN. Mr. President, the German Government has long recognized its moral obligation to assist the survivors of the Holocaust. The landmark reparations agreements of the early 1950's between the West German Government and Jewish groups were predicated on this simple premise. Yet, as years go by, it has become increasingly apparent that a large number of survivors, particularly those living in Eastern and Central Europe, were excluded from these agreements and are now being denied assistance on the flimsiest of technical grounds. As a result, in July Senators GRAHAM, HATCH, and DODD joined me in introducing Senate Concurrent Resolution 39. I am pleased that the Senate will take up this important issue today.

The need for such legislation was reinforced only last week. On November 5, Judge Heinz Sonnenberger in Germany upheld just 1 of 22 claims made by a group of Jewish women seeking payment for their work as slave laborers at Auschwitz. The other claims were dismissed by the judge on the grounds that the women had already received compensation under Germany's Federal Compensation Law. This decision represents the German Government's intractable attitude toward survivors of Nazi slave labor, however, it also presents a small window of hope for the survivors of slave labor who until now have been denied compensation by the German Government.

The German Government has continually dealt with the survivors of Nazi persecution in a heartless, bureaucratic manner, basing its decisions on technical questions and eschewing a moral obligation to aid all survivors regardless of past compensation, current financial status, or amount of pain suffered. This practice stands in sharp contrast to the generous disability pensions paid by the German Government to former members of the Waffen-SS and their families. Until

last year, when the German Supreme Court ruled that cases of compensation for slave labor could be taken up by the German courts, survivors of slave labor had been told that they should address their claims to the companies that used slave labor and not the German Government. Often companies had already paid a lump sum toward compensation and refused to hear further claims, while other companies, which had never paid claims, refused to pay them altogether. After 50 years of avoidance, it is time for the German Government to take the opportunity this ruling provides and address the issue of compensation to slave laborers head on.

Judge Sonnenberger's ruling is the first time that a German court has awarded compensation to a survivor of slave labor to be paid by the German Government. The possibility that this ruling is a precedent may be a bright spot in this otherwise regrettable decision. Perhaps other survivors of slave labor, who have never received compensation from the German Government, will be emboldened by this ruling and bring their own cases forward. This progress is tempered by the rejection of the other 21 claims. In this regard, Judge Sonnenberger's decision carries on the German Government's practice of overlooking humanitarian considerations when judging compensation claims made by the survivors of Nazi persecution.

In order to encourage a change in the German Government's position, Senate Concurrent Resolution 39 urges the German Government to expand and simplify its reparations system, to provide reparations to survivors in Eastern and Central Europe, and to set up a fund to help cover the medical expenses of Holocaust survivors. Although half a century has passed since the end of World War II, it is important to remember how many chapters opened by the devastating war remain unfinished. I hope this action will help bring the issue of reparations for survivors of Nazi persecution the fore, and encourage the German Government to make appropriate changes so that the elderly survivors of the Holocaust receive appropriate reparations.

Mr. LOTT. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The concurrent resolution (S. Con. Res. 39) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 39

Whereas the annihilation of 6,000,000 European Jews during the Holocaust and the murder of millions of others by the Nazi German state constitutes one of the most tragic episodes in the history of man's inhumanity to man;

Whereas there are more than 125,000 Holocaust survivors living in the United States and approximately 500,000 living around the world;

Whereas aging Holocaust survivors throughout the world are still suffering from permanent injuries suffered at the hands of the Nazis, and many are unable to afford critically needed medical care;

Whereas, while the German Government has attempted to address the needs of Holocaust survivors, many are excluded from reparations because of onerous eligibility requirements imposed by the German Government;

Whereas the German Government often rejects Holocaust survivors' claims on the grounds that the survivor did not present the claim correctly or in a timely manner, that the survivor cannot demonstrate to the Government's satisfaction that a particular illness or medical condition is the direct consequence of persecution in a Nazi-created ghetto or concentration camp, or that the survivor is not considered sufficiently destitute;

Whereas tens of thousands of Holocaust survivors in the former Soviet Union and other formerly Communist countries in Eastern and Central Europe have never received reparations from Germany and a smaller number has received a token amount;

Whereas, after more than 50 years, hundreds of thousands of Holocaust survivors continue to be denied justice and compensation from the German Government;

Whereas the German Government pays generous disability pensions to veterans of the Nazi armed forces, including non-German veterans of the Waffen-SS;

Whereas in 1996 the German Government paid $7,700,000,000 in such pensions to 1,100,000 veterans, including 3,000 veterans and their dependents now living in the United States;

Whereas such pensions are a veteran's benefit provided over and above the full health coverage that all German citizens, including veterans of the Waffen-SS, receive from their government; and

Whereas it is abhorrent that Holocaust survivors should live out their remaining years in conditions worse than those enjoyed by the surviving former Nazis who persecuted them: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the German Government should expand and simplify its system of reparations so that all Holocaust survivors can receive reparations, regardless of their nationality, length or place of internment, or current financial situation;

(2) the German Government should provide reparations to Holocaust survivors in the former Soviet Union and other former Communist countries in Eastern and Central Europe;

(3) the German Government should fulfill its responsibilities to victims of the Holocaust and immediately set up a comprehensive medical fund to cover the medical expenses of all Holocaust survivors worldwide; and

(4) the German Government should help restore the dignity of Holocaust survivors by paying them sufficient reparations to ensure that no Holocaust survivor be forced by poverty to live in conditions worse than those generally enjoyed by the surviving former Nazis who persecuted them.

PROVIDING FOR A CENTER FOR HISTORICALLY BLACK HERITAGE WITHIN FLORIDA A&M UNIVERSITY

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1559, introduced earlier today by Senators MACK and GRAHAM.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1559) to provide for the design, construction, furnishing, and equipping of a Center for Historically Black Heritage within Florida A&M University.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAHAM. Mr. President, I rise today on behalf of myself and my friend Senator MACK to introduce legislation authorizing the expansion of the Black Archives Research Center and Museum at the Florida Agricultural and Mechanical University in Tallahassee, Florida.

This legislation is significant not only to the Florida A&M but to national heritage. Since 1977, the Black Archives at FAMU has been charged with collecting all materials reflecting the African-American presence and participation regionally, nationally and internationally.

The Black Archives Research Center and Museum is the largest repository of African-American history in the Southeast.

In 1997, Time magazine and Princeton Review chose Florida A&M University as the college of the year. This recognition is well deserved. Since 1992, Florida A&M University has vied with Harvard in enrolling the most National Achievement Scholars. (Florida A&M leading in 1992 and 1995 and Harvard in 1993 and 1994.)

The Black Archives includes over 500,000 artifacts, manuscripts, art works and oral history tapes pre-dating the Civil War, through the early days of the civil rights movement to today.

Unfortunately, this fine center finds itself in disrepair.

The bill Senator MACK and I introduce today would authorize the design, and construction of a facility to better house these priceless documents for future generations.

Our bill would stipulate that the State of Florida match the Federal investment dollar for dollar, making it truly a Federal-State partnership.

Specifically, our bill would make the Black Archives Research Center and Museum eligible for up to $3.8 million in Federal funding beginning in 1998 and any succeeding years.

I ask unanimous consent that material relating to the Black Archives Research Center and Museum be printed in the RECORD.

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

The BARCM is located in the oldest building on the campus of Florida A&M University. The building was completed in 1907, with the assistance of a $10,000 grant from Andrew Carnegie. This building is still standing and has been placed on the National Register of Historic Places.

The purpose of the Black Archives was set forth in 1971 in an act of the Florida legislature that mandated the establishment of a repository to ''serve the state by collecting and preserving source materials on or about Black Americans from the earliest beginnings to the present.''

The BARCM was formally dedicated and officially opened in 1977. Part of its scholarly and cultural responsibility is the collection of any materials reflecting the Black presence and participation in local, regional, national and international history. The BARCM has the largest repository of African American history and artifacts in the southeast including over 500,000 artifacts, manuscripts, art work, and oral history tapes, as well as meeting and research rooms and a mobile touring museum.

The Black Archives Research Center and Museum (BARCM) is presently 3000 square feet. It is planned that the interior of the present building be restored to its original appearance. True to the Carnegie-style architectural design, the building can easily be divided into four wings; two on the first floor and two on the second floor. The building which was originally the campus library and post office, would be used solely as museum space and would house permanent collections as well as traveling or touring exhibits. As such, there would only be a need for one staff person on site, a tour guide or docent. There is also potential for housing a museum store and gift shop at this location. This enterprise could possibly generate revenues toward the ongoing support and maintenance of the building. The basement of the Carnegie building would be used for an educational ''Underground Railroad'' for grades K–12.

With proper funding, the Carnegie building would be ''connected'' (via catwalk or breezeway) to the larger 33,000 square foot space that is proposed to be built directly behind it. The larger 33,000 square foot space would be used as a research library, an archives, and as much-needed storage space. In addition, work space and preservation laboratory would be housed on the sub-level. While the Carnegie building would be used for major exhibitions and educational programs, the larger and newer space would be designated almost solely for serious study and analysis of the various collections. Tours would be prohibited in the larger space.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill appear at this point in the RECORD.

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

The bill (S. 1559) was deemed read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSTRUCTION OF A CENTER FOR REGIONAL BLACK CULTURE.

(a) FINDINGS.—Congress makes the following findings:

(1) Currently 500,000 historically important artifacts of the Civil War era and the early days of the civil rights movement in the Southeast region of the United States are housed at Florida A&M University.

(2) To preserve this large repository of African-American history and artifacts it is appropriate that the Federal Government share in the cost of construction of this national repository for culture and history.

(b) DEFINITION.—In this section:

(1) CENTER.—The term ''Center'' means the Center for Historically Black Heritage at Florida A&M University.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Interior acting through the Director of the National Park Service.

(c) CONSTRUCTION OF CENTER.—The Secretary may award a grant to the State of Florida to pay for the Federal share of the cost, design, construction, furnishing, and equipping of the Center at Florida A&M University.

(d) GRANT REQUIREMENTS.—

(1) IN GENERAL.—In order to receive a grant awarded under subsection (c), Florida A&M University, shall submit to the Secretary a proposal.

(2) FEDERAL SHARE.—The Federal share described in subsection (c) shall be 50 percent.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Secretary of Interior to carry out this section a total of $3,800,000 for fiscal year 1998 and any succeeding fiscal years. Funds appropriated pursuant to the authority of the preceding sentence shall remain available until expended.

OCEANS ACT OF 1997

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 288, S. 1213.

The PRESIDING OFFICER. The clerk will report.

A bill (S. 1213) to establish a National Ocean Council, a Commission on Ocean Policy, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to omit the part struck through and insert the part printed in italic:

So as to make the bill read:

S. 1213

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 ''Oceans Act of 1997''.

SEC. 2. CONGRESSIONAL FINDINGS; PURPOSE AND OBJECTIVES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Covering more than two-thirds of the Earth's surface, the oceans and Great Lakes play a critical role in the global water cycle and in regulating climate, sustain a large part of Earth's biodiversity, provide an important source of food and a wealth of other natural products, act as a frontier to scientific exploration, are critical to national security, and provide a vital means of transportation. The coasts, transition between land and open ocean, are regions of remarkably high biological productivity, contribute more than 30 percent of the Gross Domestic Product, and are of considerable importance for recreation, waste disposal, and mineral exploration.

(2) Ocean and coastal resources are susceptible to change as a direct and indirect result of human activities, and such changes can significantly impact the ability of the oceans and Great Lakes to provide the benefits upon which the Nation depends. Changes in ocean and coastal processes could affect global climate patterns, marine productivity and biodiversity, environmental quality, national security, economic competitiveness, availability of energy, vulnerability to natural hazards, and transportation safety and efficiency.

(3) Ocean and coastal resources are not infinite, and human pressure on them is increasing. One half of the Nation's population lives within 50 miles of the coast, ocean and coastal resources once considered inexhaustible are now threatened with depletion, and if population trends continue as expected, pressure on and conflicting demands for ocean and coastal resources will increase further as will vulnerability to coastal hazards.

(4) Marine technologies hold tremendous promise for expanding the range and increasing the utility of products from the oceans and Great Lakes, improving the stewardship of ocean and coastal resources, and contributing to business and manufacturing innovations and the creation of new jobs.

(5) Marine research has uncovered the link between oceanic and atmospheric processes and improved understanding of world climate patterns and forecasts. Important new advances, including availability of military technology, have made feasible the exploration of large areas of the ocean which were inaccessible several years ago. In designating 1998 as ''The Year of the Ocean'', the United Nations highlights the value of increasing our knowledge of the oceans.

(6) It has been 30 years since the Commission on Marine Science, Engineering, and Resources (known as the Stratton Commission) conducted a comprehensive examination of ocean and coastal activities that led to enactment of major legislation and the establishment of key oceanic and atmospheric institutions.

(7) A review of existing activities is essential to respond to the changes that have occurred over the past three decades and to develop an effective new policy for the twenty-first century to conserve and use sustainable ocean and coastal resources, protect the marine environment, explore ocean frontiers, protect human safety, and create marine technologies and economic opportunities.

(8) While significant Federal ocean and coastal programs are underway, those programs would benefit from a coherent national ocean and coastal policy that reflects the need for cost-effective allocation of fiscal resources, improved interagency coordination, and strengthened partnerships with State, private, and international entities engaged in ocean and coastal activities.

(b) PURPOSE AND OBJECTIVES.—The purpose of this Act is to develop and maintain a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities that will assist the Nation in meeting the following objectives:

(1) The protection of life and property against natural and manmade hazards.

(2) Responsible stewardship, including use, of fishery resources and other ocean and coastal resources.

(3) The protection of the marine environment and prevention of marine pollution.

(4) The enhancement of marine-related commerce, transportation, and national security, and the resolution of conflicts among users of the marine environment.

(5) The expansion of human knowledge of the marine environment including the role of

the oceans in climate and global environmental change and the advancement of education and training in fields related to ocean and coastal activities.

(6) The continued investment in and development and improvement of the capabilities, performance, use, and efficiency of technologies for use in ocean and coastal activities.

(7) Close cooperation among all government agencies and departments to ensure—

(A) coherent regulation of ocean and coastal activities;

(B) availability and appropriate allocation of Federal funding, personnel, facilities, and equipment for such activities; and

(C) cost-effective and efficient operation of Federal departments, agencies, and programs involved in ocean and coastal activities.

(8) The preservation of the role of the United States as a leader in ocean and coastal activities, and, when it is in the national interest, the cooperation by the United States with other nations and international organizations in ocean and coastal activities.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term ''Commission'' means the Commission on Ocean Policy.

(2) The term ''Council'' means the National Ocean Council.

(3) The term ''marine research'' means scientific exploration, including basic science, engineering, mapping, surveying, monitoring, assessment, and information management, of the oceans, coasts, and Great Lakes—

(A) to describe and advance understanding of—

(i) the role of the oceans, coasts and Great Lakes in weather and climate, natural hazards, and the processes that regulate the marine environment; and

(ii) the manner in which such role, processes, and environment are affected by human actions;

(B) for the conservation, management and sustainable use of living and nonliving resources; and

(C) to develop and implement new technologies related to sustainable use of the marine environment.

(4) The term ''marine environment'' includes—

(A) the oceans, including coastal and offshore waters and the adjacent shore lands;

(B) the continental shelf;

(C) the Great Lakes; and

(D) the ocean and coastal resources thereof.

(5) The term ''ocean and coastal activities'' includes activities related to marine research, fisheries and other ocean and coastal resource stewardship and use, marine aquaculture, energy and mineral resource extraction, national security, marine transportation, recreation and tourism, waste management, pollution mitigation and prevention, and natural hazard reduction.

(6) The term ''ocean and coastal resource'' means, with respect to the oceans, coasts, and Great Lakes, any living or non-living natural resource (including all forms of animal and plant life found in the marine environment, habitat, biodiversity, water quality, minerals, oil, and gas) and any significant historic, cultural or aesthetic resource.

SEC. 4. NATIONAL OCEAN AND COASTAL POLICY.

(a) EXECUTIVE RESPONSIBILITIES.—The President, with the assistance of the Council and the advice of the Commission, shall—

(1) develop and maintain a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities; and

(2) with regard to Federal agencies and departments—

(A) review significant ocean and coastal activities, including plans, priorities, accomplishments, and infrastructure requirements;

(B) plan and implement an integrated and cost-effective program of ocean and coastal activities including, but not limited to, marine research, stewardship of ocean and coastal resources, protection of the marine environment, maritime transportation safety and efficiency, the marine aspects of national security, marine recreation and tourism, and marine aspects of weather, climate, and natural hazards;

(C) designate responsibility for funding and conducting ocean and coastal activities; and

(D) ensure cooperation and resolve differences arising from laws and regulations applicable to ocean and coastal activities which result in conflicts among participants in such activities.

(b) COOPERATION AND CONSULTATION.—In carrying out responsibilities under this Act, the President and the Council may use such staff, interagency, and advisory arrangements as they find necessary and appropriate and shall consult with non-Federal organizations and individuals involved in ocean and coastal activities.

SEC. 5. NATIONAL OCEAN COUNCIL.

(a) ESTABLISHMENT.—The President shall establish a National Ocean Council which shall consist of—

(1) the Secretary of Commerce, who shall be Chairman of the Council;

(2) the Secretary of the Navy;

(3) the Secretary of State;

(4) the Secretary of Transportation;

(5) the Secretary of the Interior;

(6) the Administrator of the Environmental Protection Agency;

(7) the Director of the National Science Foundation;

(8) the Director of the Office of Science and Technology Policy;

(9) the Chairman of the Council on Environmental Quality;

(10) the Chairman of the National Economic Council;

(11) the Director of the Office of Management and Budget; and

(12) such other Federal officers and officials as the President considers appropriate.

(b) ADMINISTRATION.—

(1) The President or the Chairman of the Council may from time to time designate one of the members of the Council to preside over meetings of the Council during the absence or unavailability of such Chairman.

(2) Each member of the Council may designate an officer of his or her agency or department appointed with the advice and consent of the Senate to serve on the Council as an alternate in the event of the unavoidable absence of such member.

(3) An executive secretary shall be appointed by the Chairman of the Council, with the approval of the Council. The executive secretary shall be a permanent employee of one of the agencies or departments represented on the Council and shall remain in the employ of such agency or department.

(4) For the purpose of carrying out the functions of the Council, each Federal agency or department represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(A) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

(B) undertaking, upon request of the Chairman of the Council, such special studies for the Council as are necessary to carry out its functions.

(5) The Chairman of the Council shall have the authority to make personnel decisions regarding any employees detailed to the Council.

(c) FUNCTIONS.—The Council shall—

(1) serve as the forum for developing an ocean and coastal policy and program, taking into consideration the Commission report, and for overseeing implementation of such policy and program;

(2) improve coordination and cooperation, and eliminate duplication, among Federal agencies and departments with respect to ocean and coastal activities;

(3) work with academic, State, industry, public interest, and other groups involved in ocean and coastal activities to provide for periodic review of the Nation's ocean and coastal policy;

(4) cooperate with the Secretary of State in—

(A) providing representation at international meetings and conferences on ocean and coastal activities in which the United States participates; and

(B) coordinating the Federal activities of the United States with programs of other nations; and

(5) report at least biennially on Federal ocean and coastal programs, priorities, and accomplishments and provide budgetary advice as specified in section 7.

SEC. 6. COMMISSION ON OCEAN POLICY.

(a) ESTABLISHMENT.—

[(1) The President shall, within 90 days of the enactment of this Act, establish a Commission on Ocean Policy. The Commission shall be composed of 15 members including individuals drawn from Federal and State governments, industry, academic and technical institutions, and public interest organizations involved with ocean and coastal activities. Members shall be appointed for the life of the Commission as follows:

(A) 7 shall be appointed by the President of the United States, no more than 3 of whom may be from the executive branch of the Government.]

[(B) 2 shall be appointed by the Majority Leader of the Senate in consultation with the Chairman of the Senate Committee on Commerce, Science, and Transportation.

(C) 2 shall be appointed by the Minority Leader of the Senate in consultation with the Ranking Member of the Senate Committee on Commerce, Science, and Transportation.

(D) 2 shall be appointed by the Speaker of the House of Representatives in consultation with the Chairman of the House Committee on Resources and the Chairman of the House Committee on Science.

(E) 2 shall be appointed by the Minority Leader of the House of Representatives in consultation with the Ranking Member of the House Committee on Resources and the Ranking Member of the House Committee on Science.]

(1) The President shall, within 90 days after the enactment of this Act, establish a Commission on Ocean Policy. The Commission shall be composed of 16 members including individuals drawn from State and local governments, industry, academic and technical institutions, and public interest organizations involved with ocean and coastal activities. Members shall be appointed for the life of the Commission as follows:

(A) 4 shall be appointed by the President of the United States.

(B) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Majority Leader of the Senate in consultation with the Chairman of the Senate Committee on Commerce, Science, and Transportation.

(C) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Speaker of the House of Representatives in consultation with the Chairman of the House Committee on Resources and the Chairman of the House Committee on Science.

(D) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the Senate in consultation with the Ranking Member of the Senate Committee on Commerce, Science, and Transportation.

(E) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the House in consultation with the Ranking Member of the House Committee on Resources and the Ranking Member of the House Committee on Science.

(2) CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among such 15 members.

(3) ADVISORY MEMBERS TO THE COMMISSION.—The President shall appoint 4 advisory members from among the Members of the Senate and House of Representatives as follows:

(A) Two Members, one from each party, selected from the Senate.

(B) Two Members, one from each party, selected from the House of Representatives.

(b) FINDINGS AND RECOMMENDATIONS.—The Commission shall report to the President and the Congress on a comprehensive national ocean and coastal policy to carry out the purpose and objectives of this Act. In developing the findings and recommendations of the report, the Commission shall—

(1) review and suggest any necessary modifications to United States laws, regulations, and practices necessary to define and implement such policy;

(2) assess the condition and adequacy of investment in existing and planned facilities and equipment associated with ocean and coastal activities including human resources, vessels, computers, satellites, and other appropriate technologies and platforms;

(3) review existing and planned ocean and coastal activities of Federal agencies and departments, assess the contribution of such activities to development of an integrated long-range program for marine research, ocean and coastal resource management, and protection of the marine environment, and identify any such activities in need of reform to improve efficiency and effectiveness;

(4) examine and suggest mechanisms to address the interrelationships among ocean and coastal activities, the legal and regulatory framework in which they occur, and their inter-connected and cumulative effects on the marine environment, ocean and coastal resources, and marine productivity and biodiversity;

(5) review the known and anticipated demands for ocean and coastal resources, including an examination of opportunities and limitations with respect to the use of ocean and coastal resources within the exclusive economic zone, projected impacts in coastal areas, and the adequacy of existing efforts to manage such use and minimize user conflicts;

(6) evaluate relationships among Federal, State, and local governments and the private sector for planning and carrying out ocean and coastal activities and address the most appropriate division of responsibility for such activities;

(7) identify opportunities for the development of or investment in new products, technologies, or markets that could contribute to the objectives of this Act;

(8) consider the relationship of the ocean and coastal policy of the United States to the United Nations Convention on the Law of the Sea and other international agreements, and actions available to the United States to effect collaborations between the United States and other nations, including the development of cooperative international programs for marine research, protection of the marine environment, and ocean and coastal resource management; and

(9) engage in any other preparatory work deemed necessary to carry out the duties of the Commission pursuant to this Act.

(c) DUTIES OF CHAIRMAN.—In carrying out the provisions of this subsection, the Chairman of the Commission shall be responsible for—

(1) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and

(2) the use and expenditures of funds available to the Commission.

(d) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation is not precluded by a State, local, or Native American tribal government position, shall be compensated at a rate equal to the daily equivalent of the annual rate payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(e) STAFF.—

(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director who is knowledgeable in administrative management and ocean and coastal policy and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) The executive director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairman may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for GS–15, step 7, of the General Schedule under section 5332 of such title.

(3) Upon request of the Chairman of the Commission, the head of any Federal Agency shall detail appropriate personnel of the agency to the Commission to assist the Commission in carrying out its functions under this Act. Federal Government employees detailed to the Commission shall serve without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(4) The Commission may accept and use the services of volunteers serving without compensation, and to reimburse volunteers for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, a volunteer under this section may not be considered to be an employee of the United States for any purpose.

(5) The Commission is authorized to procure the temporary and intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate payable for GS–15, step 7, of the General Schedule under section 5332 of title 5, United States Code.

(f) ADMINISTRATION.—

(1) All meetings of the Commission shall be open to the public, except when the Chairman of the Commission or a majority of the members of the Commission determine that the meeting or any portion of it may be closed to the public. Interested persons shall be permitted to appear at open meetings and present oral or written statement on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(3) Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(g) COOPERATION WITH OTHER AGENCIES.—

(1) The Commission is authorized to secure directly from any Federal agency or department any information it deems necessary to carry out its functions under this Act. Each such agency or department is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information to the Commission, upon the request of the Chairman of the Commission.

(2) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) The General Services Administration shall provide to the Commission on a reimbursable basis the administrative support services that the Commission may request.

(4) The Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals to assist the Commission in carrying out its duties. The Commission may purchase and contract without regard to sections 303 of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8 of the Small Business Act (15 U.S.C. 637), pertaining to competition and publication requirements, and may arrange for printing without regard to the provisions of title 44, United States Code. The contracting authority of the Commission under this Act is effective only to the extent that appropriations are available for contracting purposes.

(h) REPORT.—The Commission shall submit to the President, via the Council, and to the Congress not later than 18 months after the establishment of the Commission, a final report of its findings and recommendations. The Commission shall cease to exist 30 days after it has submitted its final report.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to support the activities of the Commission a total of $6,000,000 for fiscal years 1998 and 1999. Any sums appropriated shall remain available remain available without fiscal year limitation until expended.

SEC. 7. REPORT AND BUDGET COORDINATION.

(a) BIENNIAL REPORT.—Beginning in January, 1999, the President, through the Council, shall transmit to the Congress biennially a report, which shall include—

(1) a comprehensive description of the ocean and coastal activities and related accomplishments of all agencies and departments of the United States during the preceding two fiscal years; and

(2) an evaluation of such activities and accomplishments in terms of the purpose and objectives of this Act. Reports made under this section shall contain such recommendations for legislation as the President may consider necessary or desirable.

(b) BUDGET COORDINATION.—

(1) Each year the Council shall provide general guidance to each Federal agency or department involved in ocean or coastal activities with respect to the preparation of requests for appropriations.

(2) Working in conjunction with the Council, each agency or department involved in such activities shall include with its annual request for appropriations a report which—

(A) identifies significant elements of the proposed agency or department budget relating to ocean and coastal activities; and

(B) specifies how each such element contributes to the implementation of a national ocean and coastal policy.

(3) Each agency or department that submits a report under paragraph (1) shall submit such report simultaneously to the Council.

(4) The President shall, in a timely fashion, provide the Council with an opportunity to review and comment on the budget estimate of each such agency or department.

(5) The President shall identify in each annual budget submitted to the Congress under section 1105 of title 31, United States Code, those elements of each agency or department budget that contribute to the implementation of a national ocean and coastal policy.

SEC. 8. REPEAL OF 1966 STATUTE.

The Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) is repealed.

AMENDMENT NO. 1639

(Purpose: To modify the bill as reported)

Mr. NICKLES. Mr. President, I send an amendment to the desk on behalf of Ms. SNOWE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Ms. SNOWE and Mr. HOLLINGS, proposes an amendment numbered 1639.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. CHAFEE. Mr. President, I rise today in support of S. 1213, the Oceans Act of 1997 and to thank the bill's principal sponsors for addressing my concerns. This legislation has broad, bipartisan support and as the senior Senator from the Ocean State, I am glad the United States Senate will be on the record on ocean and coastal policy as we enter 1998, which the United Nation has designated as the ''Year of the Ocean.''

The Oceans Act of 1997 is a significant bill. Its 1966 predecessor, the Marine Resources and Engineering Development Act, was one of the seminal developments in environmental law. The act created the Commission on Marine Science, Engineering, and Resources, better known as the Stratton Commission. The Stratton Commission's report, ''Our Nation and the Sea'' was delivered in 1969 and, among its many important recommendations, led directly to the creation of National Oceanographic and Atmospheric Administration in 1970.

I would note that two distinguished Rhode Islanders played leading roles in the Stratton Commission. University of Rhode Island Professor Emeritus John A. Knauss, then the Dean of the University of Rhode Island's Graduate School of Oceanography, was a Commission member and chaired the panel on Environmental Monitoring and on Management and Development of the Coastal Zone. Professor Emeritus Lewis Alexander of the University of Rhode Island, who has had a distinguished career in government and academia, was the Commission's Deputy Director. I expect that the Rhode Islanders will play key roles in the new Stratton Commission.

The value of our oceans and coastal areas cannot be underestimated. More than half of the United States population lives in or near a coastal area. The commercial fishing industry alone, which depends on these areas, contributes $111 billion dollars per year to the national economy. Moreover, oceans are the lifeblood of the world. The health of our marine resources is intertwined with that of ecosystems throughout the world.

The purpose of the bill before us is to develop and maintain a comprehensive national policy for our oceans and coastal areas. A national ocean policy includes a broad range of issues from commerce, environmental protection, scientific research, to national security. To that end, the bill establishes a 16-member National Ocean Commission, which will be assisted by an interagency National Ocean Council, in developing and making recommendations to Congress for a national oceans policy.

As originally reported by the Committee on Commerce, Science and Technology, the creation of the National Ocean Council, raised two concerns. First, how would the National Ocean Council affect the execution of existing environmental laws? Second, is it timely now to create a permanent Council prior to the report of the independent National Ocean Commission created in the bill?

The manager's amendment that is before us to day answers both of these questions. Any possible ambiguity regarding the National Ocean Council's role is resolved. Existing responsibilities under federal law are unaffected.

I was concerned creation of a permanent Council now would unduly constrain the Commission's recommendations. The manager's amendment makes it clear, however, that the National Ocean Council's function is to assist the independent National Ocean Commission in the preparation of its report. After the Commission completes its report, the Council will take the Commission report into account in developing an implementation plan for a national ocean and coastal policy. the National Ocean Council will also cease to exist one year after the Commission submits its report.

Before closing, I want to commend Senators HOLLINGS for his persistence with respect to oceans and coastal policy. I also want to thank him, as well as Senators SNOWE and MCCAIN, for addressing my concerns in the manager's amendment.

Mr. HOLLINGS. Mr. President, I rise in support of Senate passage of S. 1213, the Oceans Act of 1997. The bill calls for an action plan for the twenty-first century to explore, protect, and make better use of our oceans and coasts. Its passage is, quite simply, the most important step we can take today to ensure the future of our oceans and coasts.

I thank my colleagues for their support, in particular, the leadership of the Commerce Committee, Senators MCCAIN and SNOWE, for their cosponsorship and their efforts over the last several weeks to bring this bill to the floor. Following in the Commerce Committee tradition with respect to ocean issues, this has been a bipartisan process. I also thank the other cosponsors of the legislation, Senators STEVENS, KERRY, BREAUX, INOUYE, KENNEDY, BOXER, BIDEN, LAUTENBERG, AKAKA, MURKOWSKI, THURMOND, and MURRAY for their continued support. Finally, I want to express my appreciation to the numerous academic, environmental, and industry groups who agree that the time has come for this bill.

The legislation that is before the Senate today is a substitute by Senator SNOWE and myself, that reflects the comments received from the administration and concerns expressed by Senator CHAFEE and others. The essential elements of the bill remain the same as the committee-reported version and would establish two new entities. First is a 16-member Commission on Ocean Policy (Commission) to provide recommendations for a national ocean and coastal policy. Second is the National Ocean Council (Council), a high-level Federal interagency working group to advise the President and the Commission, assist in policy development and implementation, and coordinate Federal programs relating to ocean and coastal activities.

The changes made by the Snowe-Hollings substitute focus primarily on addressing concerns expressed regarding the establishment of the Council. Over the past two weeks, the National Security Council and the Department of Commerce have worked under Secretary Daley's able leadership to pull together the views of the numerous Federal entities involved in ocean and coastal activities. The results of that effort are reflected in the amendment,

and I am including a letter from Secretary Daley expressing the administration's support for S. 1213 following my statement. At Senator CHAFEE's request, we also have agreed to sunset the Council one year after the Commission completes its report. As we have discussed with both the administration and Senator CHAFEE, the purpose of the Council is to ensure coordinated input by Federal agencies and departments in the development and implementation of a national ocean and coastal policy. The Council is intended to provide an important forum for administration ocean policy discussions, not to supersede other ongoing coordination mechanisms like the interagency working group on international ocean policy, nor to interfere with ongoing Federal activities under existing law. The changes made by the substitute should clarify that intent, and if, based on experience and the Commission recommendations, the Council proves to be an effective long-term mechanism for coordinating Federal ocean activities, it could be extended either administratively or legislatively.

In 1966, Congress enacted the Marine Resources and Engineering Development Act (1966 Act). This bill would update and replace that legislation. The 1966 Act established the Stratton Commission whose report, ''Our Nation and the Sea,'' defined national objectives and programs with respect to the oceans and in conjunction with the 1966 Act laid the foundation for U.S. ocean and coastal policy and programs, guiding their development for three decades.

While the Stratton Commission displayed broad vision, the world has changed in numerous ways since 1966. The U.S. legal and bureaucratic framework related to the oceans has grown enormously in the past 30 years. In 1966, there was no NOAA, no Environmental Protection Agency, and no laws like the Clean Water Act, Endangered Species Act, the Marine Mammal Protection Act, the Marine Protection, Research, and Sanctuaries Act, the Magnuson-Stevens Fishery Conservation and Management Act, or the Oil Pollution Act. Today people who work and live on the water face a patchwork of confusing and sometimes contradictory federal and state regulations. Fishermen tell me they need a law degree to go fishing. This bill will allow us to reduce conflicts while maintaining environmental and health safeguards.

Oceans and coasts face pressures today that the authors of the 1966 Act could not have foreseen. Today, over 50 percent of the U.S. population lives in coastal areas which account for less than 10 percent of our land area. By the year 2010, 127 million people, an estimated 60 percent of Americans, will live along the coast. Greater understanding of ocean and coastal ecosystems and improved management are essential to maintain healthy coasts and to prepare for and protect communities from natural hazards like hurricanes.

We need to do a better job of managing and using marine resources as demonstrated by fish kills, oil spills, the invasion of zebra mussels, and the death of thousands of marine animals from marine plastic debris. We have fallen short in defending our shores and waters. In recent years, New England has struggled with the collapse of their traditional cod, haddock, and flounder. In other regions, overfished stocks include sharks, swordfish, bluefin tuna, salmon, red snapper, grouper, and weakfish. Restoring fisheries could add an estimated $2.9 billion to the economy each year. However, we are allowing about 20,000 acres of coastal wetlands, important fish habitat, to disappear each year. Louisiana alone has lost half a million acres of wetlands since the mid 1950's.

Environmental threats to the oceans are growing increasingly complex. This past summer, local newspapers reported daily on *Pfiesteria*, the tiny killer cell wreaking havoc in the Chesapeake Bay and North Carolina. Thousands of fish were killed—literally eaten alive by this toxic organism—and some fishermen, swimmers, boaters, and scientists exposed to the cell experienced memory loss, skin lesions, and other troubling symptoms. Scientists suspect everything from inadequate city sewage plants to farm manure and fertilizer runoff. The technical, legal, and management tools to address *Pfiesteria* may exist collectively within a variety of federal and state agencies. However, we currently lack a structured and effective means to bring this expertise to bear on the problem.

Another challenge is El Niño, the cyclical warming of ocean waters off the western coast of South America. The warming results in significant shifts in weather patterns, including rainfall and temperatures in the United States and elsewhere. Experts estimate that an additional 150 Americans die in storms and flooding in El Niño years. While El Niño is a natural phenomenon, human effects on the oceans and atmosphere may increase its magnitude and frequency. Advanced forecasts could reduce by up to $1 billion the agricultural, economic, and social impacts resulting from El Niño. In addition, action to reduce global warming and other changes to the oceans and atmosphere may reduce the severity of future El Niño events.

We have an opportunity to take economic and scientific advantage of recent technological advances related to the oceans. Today, we still have explored only a tiny fraction of the sea, but with the use of new technologies what we have found is truly incredible. For example, hydrothermal vents, hot water geysers on the deep ocean floor, were discovered just 20 years ago by oceanographers trying to understand the formation of the earth's crust. Now this discovery has led to the identification of nearly 300 new types of marine animals with untold pharmaceutical and biomedical potential.

A re-examination of national policies is also essential to maintain U.S. leadership on international ocean issues. On November 16, 1994, the U.N. Convention on the Law of the Sea entered into force for most countries of the world. Although the United States has accepted most provisions of the treaty as customary international law and 120 other nations are party, U.S. ratification remains in question. At issue is whether changes made to the treaty in 1994 adequately correct the seabed mining provisions that the United States has opposed for twelve years.

The last 31 years have brought great changes to our oceans and coast. Our nation needs to reexamine our policies and programs so that we can continue to explore, protect, and sustainably use ocean resources now and throughout the twenty-first century. The Oceans Act of 1997 will guide us through that process with the vision it demands. I urge the Senate to pass S. 1213.

I ask unanimous consent a letter dated November 9, 1997 from the Secretary of Commerce be printed in the RECORD.

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

THE SECRETARY OF COMMERCE,
Washington, DC, November 9, 1997.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to provide the Administration's views on the Oceans Act of 1997 (S. 1213) as reported by the Senate Committee on Commerce, Science and Transportation. As you prepare to bring the bill to the Senate floor, your consideration of the Administration's views would be appreciated.

The Committee has developed a bill that supports and furthers the Administration's ocean policy goals. The Administration has in place robust interagency mechanisms for coordinating ocean policy issues. We believe that the bill, as modified by the Manager's Amendment that was recently provided to us, would be consistent with, and assist in achieving, the Administration's domestic ocean policy objectives. Accordingly, the Administration supports Senate passage of S. 1213, as modified by the Manager's Amendment.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this letter to the Congress from the standpoint of the program of the President.

Sincerely,

WILLIAM M. DALEY.

Mr. NICKLES. Mr. President, I ask unanimous consent that the amendment be agreed to, that the bill be considered read the third time, and passed, as amended, and that any statements relating to the bill appear at this point in the RECORD.

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

The amendment (No. 1639) was agreed to.

The bill (S. 1213) was considered read the third time, and passed, as amended, as follows:

S. 1213

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 ''Oceans Act of 1997''.

SEC. 2. CONGRESSIONAL FINDINGS; PURPOSE AND OBJECTIVES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Covering more than two-thirds of the Earth's surface, the oceans and Great Lakes play a critical role in the global water cycle and in regulating climate, sustain a large part of Earth's biodiversity, provide an important source of food and a wealth of other natural products, act as a frontier to scientific exploration, are critical to national security, and provide a vital means of transportation. The coasts, transition between land and open ocean, are regions of remarkably high biological productivity, contribute more than 30 percent of the Gross Domestic Product, and are of considerable importance for recreation, waste disposal, and mineral exploration.

(2) Ocean and coastal resources are susceptible to change as a direct and indirect result of human activities, and such changes can significantly impact the ability of the oceans and Great Lakes to provide the benefits upon which the Nation depends. Changes in ocean and coastal processes could affect global climate patterns, marine productivity and biodiversity, environmental quality, national security, economic competitiveness, availability of energy, vulnerability to natural hazards, and transportation safety and efficiency.

(3) Ocean and coastal resources are not infinite, and human pressure on them is increasing. One half of the Nation's population lives within 50 miles of the coast, ocean and coastal resources once considered inexhaustible are now threatened with depletion, and if population trends continue as expected, pressure on and conflicting demands for ocean and coastal resources will increase further as will vulnerability to coastal hazards.

(4) Marine transportation is key to United States participation in the global economy and to the wide range of activities carried out in ocean and coastal regions. Inland waterway and ports are the link between marine activities in ocean and coastal regions and the supporting transportation infrastructure ashore. International trade is expected to triple by 2020. The increase has the potential to outgrow—

(A) the capabilities of the marine transportation system to ensure safety; and

(B) the existing capacity of ports and waterways.

(5) Marine technologies hold tremendous promise for expanding the range and increasing the utility of products from the oceans and Great Lakes, improving the stewardship of ocean and coastal resources, and contributing to business and manufacturing innovations and the creation of new jobs.

(6) Research has uncovered the link between oceanic and atmospheric processes and improved understanding of world climate patterns and forecasts. Important new advances, including availability of military technology, have made feasible the exploration of large areas of the ocean which were inaccessible several years ago. In designating 1998 as ''The Year of the Ocean'', the United Nations highlights the value of increasing our knowledge of the oceans.

(7) It has been 30 years since the Commission on Marine Science, Engineering, and Resources (known as the Stratton Commission) conducted a comprehensive examination of ocean and coastal activities that led to enactment of major legislation and the establishment of key oceanic and atmospheric institutions.

(8) A review of existing activities is essential to respond to the changes that have occurred over the past three decades and to develop an effective new policy for the twenty-first century to conserve and use, in a sustainable manner, ocean and coastal resources, protect the marine environment, explore ocean frontiers, protect human safety, and create marine technologies and economic opportunities.

(9) Changes in United States laws and policies since the Stratton Commission, such as the enactment of the Coastal Zone Management Act, have increased the role of the States in the management of ocean and coastal resources.

(10) While significant Federal and State ocean and coastal programs are underway, those Federal programs would benefit from a coherent national ocean and coastal policy that reflects the need for cost-effective allocation of fiscal resources, improved interagency coordination, and strengthened partnerships with State, private, and international entities engaged in ocean and coastal activities.

(b) PURPOSE AND OBJECTIVES.—The purpose of this Act is to develop and maintain, consistent with the obligations of the United States under international law, a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities that will assist the Nation in meeting the following objectives:

(1) The protection of life and property against natural and manmade hazards.

(2) Responsible stewardship, including use, of fishery resources and other ocean and coastal resources.

(3) The protection of the marine environment and prevention of marine pollution.

(4) The enhancement of marine-related commerce and transportation, the resolution of conflicts among users of the marine environment, and the engagement of the private sector in innovative approaches for sustainable use of marine resources.

(5) The expansion of human knowledge of the marine environment including the role of the oceans in climate and global environmental change and the advancement of education and training in fields related to ocean and coastal activities.

(6) The continued investment in and development and improvement of the capabilities, performance, use, and efficiency of technologies for use in ocean and coastal activities.

(7) Close cooperation among all government agencies and departments to ensure—

(A) coherent regulation of ocean and coastal activities;

(B) availability and appropriate allocation of Federal funding, personnel, facilities, and equipment for such activities; and

(C) cost-effective and efficient operation of Federal departments, agencies, and programs involved in ocean and coastal activities.

(8) The enhancement of partnerships with State and local governments with respect to oceans and coastal activities, including the management of ocean and coastal resources and identification of appropriate opportunities for policy-making and decision-making at the State and local level.

(9) The preservation of the role of the United States as a leader in ocean and coastal activities, and, when it is in the national interest, the cooperation by the United States with other nations and international organizations in ocean and coastal activities.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term ''Commission'' means the Commission on Ocean Policy.

(2) The term ''Council'' means the National Ocean Council.

(3) The term ''marine environment'' includes—

(A) the oceans, including coastal and offshore waters and the adjacent shore lands;

(B) the continental shelf;

(C) the Great Lakes; and

(D) the ocean and coastal resources thereof.

(4) The term ''ocean and coastal activities'' includes activities related to oceanography, fisheries and other ocean and coastal resource stewardship and use, marine aquaculture, energy and mineral resource extraction, marine transportation, recreation and tourism, waste management, pollution mitigation and prevention, and natural hazard reduction.

(5) The term ''ocean and coastal resource'' means, with respect to the oceans, coasts, and Great Lakes, any living or non-living natural resource (including all forms of animal and plant life found in the marine environment, habitat, biodiversity, water quality, minerals, oil, and gas) and any significant historic, cultural or aesthetic resource.

(6) The term ''oceanography'' means scientific exploration, including marine scientific research, engineering, mapping, surveying, monitoring, assessment, and information management, of the oceans, coasts, and Great Lakes—

(A) to describe and advance understanding of—

(i) the role of the oceans, coasts and Great Lakes in weather and climate, natural hazards, and the processes that regulate the marine environment; and

(ii) the manner in which such role, processes, and environment are affected by human actions;

(B) for the conservation, management and sustainable use of living and nonliving resources; and

(C) to develop and implement new technologies related to sustainable use of the marine environment.

SEC. 4. NATIONAL OCEAN AND COASTAL POLICY.

(a) EXECUTIVE RESPONSIBILITIES.—The President, with the assistance of the Council and the advice of the Commission, shall—

(1) develop and maintain a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities consistent with obligations of the United States under international law; and

(2) with regard to Federal agencies and departments—

(A) review significant ocean and coastal activities, including plans, priorities, accomplishments, and infrastructure requirements;

(B) plan and implement an integrated and cost-effective program of ocean and coastal activities including, but not limited to, oceanography, stewardship of ocean and coastal resources, protection of the marine environment, maritime transportation safety and efficiency, marine recreation and tourism, and marine aspects of weather, climate, and natural hazards;

(C) designate responsibility for funding and conducting ocean and coastal activities; and

(D) ensure cooperation and resolve differences arising from laws and regulations applicable to ocean and coastal activities which result in conflicts among participants in such activities.

(b) COOPERATION AND CONSULTATION.—In carrying out responsibilities under this Act, the President may use such staff, interagency, and advisory arrangements as the President finds necessary and appropriate and shall consult with non-Federal organizations and individuals involved in ocean and coastal activities.

SEC. 5. NATIONAL OCEAN COUNCIL.

(a) ESTABLISHMENT.—The President shall establish a National Ocean Council and appoint a Chairman from among its members. The Council shall consist of—

(1) the Secretary of Commerce;

(2) the Secretary of Defense;

(3) the Secretary of State;

(4) the Secretary of Transportation;

(5) the Secretary of the Interior;

(6) the Attorney General;

(7) the Administrator of the Environmental Protection Agency;

(8) the Director of the National Science Foundation;

(9) the Director of the Office of Science and Technology Policy;

(10) the Chairman of the Council on Environmental Quality;

(11) the Chairman of the National Economic Council;

(12) the Director of the Office of Management and Budget; and

(13) such other Federal officers and officials as the President considers appropriate.

(b) ADMINISTRATION.—

(1) The President or the Chairman of the Council may from time to time designate one of the members of the Council to preside over meetings of the Council during the absence or unavailability of such Chairman.

(2) Each member of the Council may designate an officer of his or her agency or department appointed with the advice and consent of the Senate to serve on the Council as an alternate in the event of the unavoidable absence of such member.

(3) An executive secretary shall be appointed by the Chairman of the Council, with the approval of the Council. The executive secretary shall be a permanent employee of one of the agencies or departments represented on the Council and shall remain in the employ of such agency or department.

(4) For the purpose of carrying out the functions of the Council, each Federal agency or department represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(A) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

(B) undertaking, upon request of the Chairman of the Council, such special studies for the Council as are necessary to carry out its functions.

(5) The Chairman of the Council shall have the authority to make personnel decisions regarding any employees detailed to the Council.

(c) FUNCTIONS.—The Council shall—

(1) assist the Commission in completing its report under section 6;

(2) serve as the forum for developing an implementation plan for a national ocean and coastal policy and program, taking into consideration the Commission report;

(3) improve coordination and cooperation, and eliminate duplication, among Federal agencies and departments with respect to ocean and coastal activities; and

(4) assist the President in the preparation of the first report required by section 7(a).

(d) SUNSET.—The Council shall cease to exist one year after the Commission has submitted its final report under section 6(h).

(e) SAVINGS PROVISION.—

(1) Council activities are not intended to supersede or interfere with other Executive Branch mechanisms and responsibilities.

(2) Nothing in this Act has any effect on the authority or responsibility of any Federal officer or agency under any other Federal law.

SEC. 6. COMMISSION ON OCEAN POLICY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The President shall, within 90 days after the enactment of this Act, establish a Commission on Ocean Policy. The Commission shall be composed of 16 members including individuals drawn from State and local governments, industry, academic and technical institutions, and public interest organizations involved with ocean and coastal activities. Members shall be appointed for the life of the Commission as follows:

(A) 4 shall be appointed by the President of the United States.

(B) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Majority Leader of the Senate in consultation with the Chairman of the Senate Committee on Commerce, Science, and Transportation.

(C) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Speaker of the House of Representatives in consultation with the Chairman of the House Committee on Resources.

(D) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the Senate in consultation with the Ranking Member of the Senate Committee on Commerce, Science, and Transportation.

(E) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the House in consultation with the Ranking Member of the House Committee on Resources.

(2) FIRST MEETING.—The Commission shall hold its first meeting within 30 days after it is established.

(3) CHAIRMAN.—The President shall select a Chairman from among such 16 members. Before selecting the Chairman, the President is requested to consult with the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

(4) ADVISORY MEMBERS.—In addition, the Commission shall have 4 Members of Congress, who shall serve as advisory members. One of the advisory members shall be appointed by the Speaker of the House of Representatives. One of the advisory members shall be appointed by the minority leader of the House of Representatives. One of the advisory members shall be appointed by the majority leader of the Senate. One of the advisory members shall be appointed by the minority leader of the Senate. The advisory members shall not participate, except in an advisory capacity, in the formulation of the findings and recommendations of the Commission.

(b) FINDINGS AND RECOMMENDATIONS.—The Commission shall report to the President and the Congress on a comprehensive national ocean and coastal policy to carry out the purpose and objectives of this Act. In developing the findings and recommendations of the report, the Commission shall—

(1) review and suggest any necessary modifications to United States laws, regulations, and practices necessary to define and implement such policy, consistent with the obligations of the United States under international law;

(2) assess the condition and adequacy of investment in existing and planned facilities and equipment associated with ocean and coastal activities including human resources, vessels, computers, satellites, and other appropriate technologies and platforms;

(3) review existing and planned ocean and coastal activities of Federal agencies and departments, assess the contribution of such activities to development of an integrated long-range program for oceanography, ocean and coastal resource management, and protection of the marine environment, and identify any such activities in need of reform to improve efficiency and effectiveness;

(4) examine and suggest mechanisms to address the interrelationships among ocean and coastal activities, the legal and regulatory framework in which they occur, and their inter-connected and cumulative effects on the marine environment, ocean and coastal resources, and marine productivity and biodiversity;

(5) review the known and anticipated demands for ocean and coastal resources, including an examination of opportunities and limitations with respect to the use of ocean and coastal resources within the exclusive economic zone, projected impacts in coastal areas, and the adequacy of existing efforts to manage such use and minimize user conflicts;

(6) evaluate relationships among Federal, State, and local governments and the private sector for planning and carrying out ocean and coastal activities and address the most appropriate division of responsibility for such activities;

(7) identify opportunities for the development of or investment in new products, technologies, or markets that could contribute to the objectives of this Act;

(8) consider the relationship of the ocean and coastal policy of the United States to the United Nations Convention on the Law of the Sea and other international agreements, and actions available to the United States to effect collaborations between the United States and other nations, including the development of cooperative international programs for oceanography, protection of the marine environment, and ocean and coastal resource management; and

(9) engage in any other preparatory work deemed necessary to carry out the duties of the Commission pursuant to this Act.

(c) DUTIES OF CHAIRMAN.—In carrying out the provisions of this subsection, the Chairman of the Commission shall be responsible for—

(1) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and

(2) the use and expenditures of funds available to the Commission.

(d) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation is not precluded by a State, local, or Native American tribal government position, shall be compensated at a rate equal to the daily equivalent of the annual rate payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(e) STAFF.—

(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director who is knowledgeable in administrative management and ocean and coastal policy and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) The executive director shall be compensated at a rate not to exceed the rate

payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairman may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for GS–15, step 7, of the General Schedule under section 5332 of such title.

(3) Upon request of the Chairman of the Commission, after consulting with the head of the Federal agency concerned, the head of any Federal Agency shall detail appropriate personnel of the agency to the Commission to assist the Commission in carrying out its functions under this Act. Federal Government employees detailed to the Commission shall serve without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(4) The Commission may accept and use the services of volunteers serving without compensation, and to reimburse volunteers for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, a volunteer under this section may not be considered to be an employee of the United States for any purpose.

(5) To the extent that funds are available, and subject to such rules as may be prescribed by the Commission, the executive director of the Commission may procure the temporary and intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate payable for GS–15, step 7, of the General Schedule under section 5332 of title 5, United States Code.

(f) ADMINISTRATION.—

(1) All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(c) of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statement on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(3) Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(g) COOPERATION WITH OTHER FEDERAL ENTITIES.—

(1) The Commission is authorized to secure directly from any Federal agency or department any information it deems necessary to carry out its functions under this Act. Each such agency or department is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information to the Commission, upon the request of the Chairman of the Commission.

(2) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) The General Services Administration shall provide to the Commission on a reimbursable basis the administrative support services that the Commission may request.

(4) The Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals to assist the Commission in carrying out its duties. The Commission may purchase and contract without regard to section 303 of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8 of the Small Business Act (15 U.S.C. 637), pertaining to competition and publication requirements, and may arrange for printing without regard to the provisions of title 44, United States Code. The contracting authority of the Commission under this Act is effective only to the extent that appropriations are available for contracting purposes.

(h) REPORT.—The Commission shall submit to the President, via the Council, and to the Congress not later than 18 months after the establishment of the Commission, a final report of its findings and recommendations. The Commission shall cease to exist 30 days after it has submitted its final report.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to support the activities of the Commission a total of up to $6,000,000 for fiscal years 1998 and 1999. Any sums appropriated shall remain available without fiscal year limitation until the Commission ceases to exist.

SEC. 7. REPORT AND BUDGET COORDINATION.

(a) BIENNIAL REPORT.—Beginning in January, 1999, the President shall transmit to the Congress biennially a report, which shall include—

(1) a comprehensive description of the ocean and coastal activities (and budgets) and related accomplishments of all agencies and departments of the United States during the preceding two fiscal years; and

(2) an evaluation of such activities (and budgets) and accomplishments in terms of the purpose and objectives of this Act. Reports made under this section shall contain such recommendations for legislation as the President may consider necessary or desirable.

(b) BUDGET COORDINATION.—

(1) Each year the President shall provide general guidance to each Federal agency or department involved in ocean or coastal activities with respect to the preparation of requests for appropriations.

(2) Each agency or department involved in such activities shall include with its annual request for appropriations a report which—

(A) identifies significant elements of the proposed agency or department budget relating to ocean and coastal activities; and

(B) specifies how each such element contributes to the implementation of a national ocean and coastal policy.

SEC. 8. REPEAL OF 1966 STATUTE.

The Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) is repealed.

AMENDING TITLE 49, UNITED STATES CODE, REGARDING THE NATIONAL TRANSPORTATION SAFETY BOARD

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2476, which was received from the House.

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

The clerk will report.

A bill (H.R. 2476) to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I am pleased that the Senate has turned to H.R. 2476, the Foreign Air Carrier Family Support Act. I urge its immediate adoption. H.R. 2476 is virtually identical to legislation that I introduced earlier in the year, and that the Commerce Committee approved in September. I commend my committee colleagues—especially Senators GORTON, HOLLINGS, and FORD—for working with me on this issue. In particular, I want to recognize Representative UNDERWOOD, who spearheaded this effort in the House.

It was the tragic crash of Korean Air Flight 801 in Guam that brought the need for this legislation into focus. The bill would require a foreign air carrier that wants permission to operate in the United States to develop a family assistance plan, in the event of an accident on U.S. soil.

Specifically, the foreign air carrier would be required to provide the Secretary of Transportation and the chairman of the National Transportation Safety Board [NTSB] with a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of that foreign air carrier, and that involves a significant loss of life. The Secretary could not grant permission for the foreign air carrier to operate in the United States unless the Secretary had received a sufficient family assistance plan.

The requisite family assistance plan would include a reliable, staffed toll-free number for the passengers' families, and a process for expedient family notification prior to public notice of the passengers' identities. An NTSB employee would serve as director of family support services, with the assistance of an independent nonprofit organization with experience in disasters and post-trauma communication with families. The foreign air carrier would provide these family liaisons with updated passenger lists following the crash. The legislation would require that the carrier consult and coordinate with the families on the disposition of remains and personal effects.

The legislation would build on the family assistance provisions that Congress enacted last year as part of the Federal Aviation Reauthorization Act

of 1996. Domestic air carriers are already operating under the same legislative requirements set out in the legislation before us.

Again, it was the unfortunate confusion and heartache surrounding the tragic airline crash in Guam that demonstrated the need for this bill. I urge immediate adoption of the Foreign Air Carrier Family Support Act.

Mr. HOLLINGS. Mr. President, I want to thank Congressman UNDERWOOD of Guam for pursuing H.R. 2476. The bill, virtually identical to a bill reported by the Commerce Committee, S. 1196, puts the same burden on foreign air carriers serving the United States as those now imposed on U.S. carriers when dealing with the families affected by aviation disasters. Under existing law, U.S. carriers must develop and submit plans to the Department of Transportation and the National Transportation Safety Board on how they will address the needs of the families of victims of disasters. The law today does not include foreign air carriers, and thus, H.R. 2476 is needed.

The bill is supported by the Administration, and I support its adoption. What we are asking all of the carriers to do is treat people fairly. The U.S. carriers have already been asked to do it, and now we are asking the foreign air carriers to do it. All carriers, foreign or U.S., should be prepared to deal with the families and to provide them with the kinds of assistance they have every reason to expect. H.R. 2476 ensures that this will happen. I urge the Senate to pass this bill.

Mr. GORTON. Mr. President, I rise to join Senator MCCAIN, Senator HOLLINGS, and Senator FORD in urging that we immediately adopt H.R. 2476, the Foreign Air Carrier Family Support Act. I also recognize Representative Underwood's efforts to facilitate this legislation following the recent crash of Korean Air Flight 801 in Guam, which killed more than 200 people.

As Senator MCCAIN stated, last year the Congress approved almost identical legislation that required domestic air carriers to establish a disaster support plan for the families of aviation accident victims. The legislation we are now considering would extend this requirement to foreign air carriers if they have an accident on American soil.

I would note that the Family Assistance Task Force strongly supports this legislation. The task force, which Congress established to find new ways to assist family members and others devastated by an airline crash, recently voted unanimously to endorse this act. The task force also asked that Congress pass this legislation as expeditiously as possible.

It is unfortunate that airline accidents often provide the impetus to make improvements. The Flight 801 tragedy clearly showed the need to improve planning to assist family members when a foreign airline crashes on American soil. Despite the best efforts of the National Transportation Safety Board and others, the family members of Flight 801 accident victims would have been better served if a plan had been in place.

As we all know, the news of an air disaster spreads quickly. The media is often reporting about a crash as soon as, if not before, the rescue teams reach the scene. This legislation provides a framework to ensure that family members receive proper assistance. Among other things, foreign airlines would be required to have a plan to publicize a toll-free number, have staff available to take calls, have an up-to-date list of passengers, and have a process to notify families—in person if possible—before any public notification that a family member was onboard a crashed aircraft. These are basic services that anyone should receive.

Hopefully, it will never be necessary for any foreign airline to use the plans required under this act. In the event of an accident, however, family members of victims are due the consideration and compassion that this legislation provides.

Again, I want to thank Senator MCCAIN for moving this legislation quickly, and I would urge that we now adopt the Foreign Air Carrier Family Support Act.

Mr. FORD. Mr. President, on August 5, 1997, Korean Air flight 801 crashed into a hillside on Guam, killing 228. We worked with Chairman MCCAIN and our House colleagues last year to enact legislation requiring U.S. air carriers to develop plans to address the needs of families following an aviation disaster. The 1996 Federal Aviation Administration [FAA] Reauthorization Act (P.L. 104–264), however, did not impose a similar requirement on foreign carriers serving the United States.

Section 703 of the FAA Reauthorization Act specifically requires that the air carrier submit disaster plans to the Secretary of Transportation and the National Transportation Safety Board. The plans must include items such as a means to publicize toll-free telephone numbers for the families, a process for notifying families, an assurance that the families be consulted on the disposition of remains and personal effects, and a requirement that the carrier work with other organizations in dealing with the disaster.

Congressman UNDERWOOD of Guam originally introduced H.R. 2834 on the House side, and a corresponding bill, S. 1196, was introduced in the Senate to subject foreign carriers serving the United States to the requirements mentioned above. The Senate bill was considered and reported by the Commerce Committee.

I urge my colleagues to support the passage of H.R. 2834 so the President can sign this bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD at the appropriate place.

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

The bill (H.R. 2476) was considered, read the third time, and passed.

MAKING CLARIFICATION TO THE PILOT RECORDS IMPROVEMENT ACT OF 1996

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2626, which was received in the House.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2626) to make clarifications to the Pilot Records Improvement Act of 1996, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, last year, as part of the Federal Aviation Administration Reauthorization Act of 1996, we imposed a series of new requirements before an ''air carrier'' could hire a pilot. When the bill as originally crafted was being developed, we worked with the pilots' unions and with the Air Transport Association to develop a workable approach that is fair to pilots and airlines and advances aviation safety.

H.R. 2626 clears up a number of technical problems, but continues the spirit of the original legislation—to make sure that pilots operating commercial aircraft are qualified. For many smaller carriers, such as on-demand carriers like Bankair in South Carolina, the new law created a number of logistical problems. I added a provision to the fiscal year 1998 Transportation Appropriations law to ensure that the FAA, as holder of some pilot records, is able to supply those records expeditiously.

H.R. 2626 will allow air carriers to hire, but not use, a pilot until his or her records had been checked. Smaller carriers operating non-scheduled flights also are given additional flexibility. I support the changes, and urge the passage of H.R. 2626.

Mr. FORD. Mr. President, I want to explain to my colleagues the need for H.R. 2626, a bill to make clarifications to the Pilot Records Improvement Act of 1996. Last year, we worked diligently with the airlines, ALPA and the Independent Pilots Association, to craft a bill that requires air carriers to share pilot records before a pilot could be employed. The change in law was necessitated by a safety recommendation by the National Transportation Safety Board.

H.R. 2626 modifies the law to let the air carriers hire a pilot prior to final check of the records, but the pilot can not operate a commercial flight until

the records are checked. Thus, the carriers can begin training new employees, and when the records are cleared, put the pilot to work. Because there have been problems in expeditiously providing records, the hiring process will not be impeded.

For small aircraft that are not used in scheduled service, for example, an on-demand cargo charter aircraft with a maximum payload capacity of less than 7,500 pounds, a fully certified pilot can operate such aircraft for a limited period while the records are being reviewed. The requirement on the cargo operator is not changed—the records must be obtained and checked, but the pilot can fly for a 90-day period. Finally, the bill provides a narrow good faith exception for a carrier seeking the records of a pilot from another carrier that has ceased to exist. All other requirements for the pilot—licenses, medical tests, for example—are unchanged.

I urge my colleagues to support the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 2626) was considered read the third time, and passed.

AUTHORIZING TESTIMONY AND SENATE LEGAL COUNSEL REPRESENTATION

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 162 submitted earlier in the day by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 162) to authorize testimony and representation of Senate employees in United States v. Blackley.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a criminal prosecution brought against Ronald Blackley, the former chief of staff of former Secretary of Agriculture Mike Espy. The Independent Counsel, who is bringing this prosecution, seeks evidence from the Committee on Agriculture, Nutrition, and Forestry concerning representations made to the Committee about Mr. Blackley during the Committee's consideration of the nomination of Secretary Espy in January 1993. This resolution would authorize the testimony of employees and former employees of the Committee from whom testimony may be required, with representation by the Senate Legal Counsel.

Mr. NICKLES. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 162), with its preamble, is as follows:

S. RES. 162

Whereas, in the case of *United States* v. *Blackley*, Criminal Case No. 97–0166, pending in the United States District Court for the District of Columbia, testimony has been requested from Brent Baglien, a former employee on the staff of the Committee on Agriculture, Nutrition, and Forestry;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That Brent Baglien, and any other present or former employee from whom testimony may be required, are authorized to testify in the case of *United States* v. *Blackley*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent Brent Baglien and any present or former employee of the Senate in connection with testimony in *United States* v. *Blackley*.

HOLOCAUST VICTIMS REDRESS ACT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Senate bill 1564 introduced earlier today by Senator D'AMATO.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1564) to provide redress of inadequate restitution of assets seized by the United States Government during World War II which belonged to victims of the Holocaust, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 1564) was deemed read a third time, and passed, as follows:

S. 1564

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 ''Holocaust Victims Redress Act''.

TITLE I—HEIRLESS ASSETS

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:

(1) Among the $198,000,000 in German assets located in the United States and seized by the United States Government in World War II were believed to be bank accounts, trusts, securities, or other assets belonging to Jewish victims of the Holocaust.

(2) Among an estimated $1,200,000,000 in assets of Swiss nationals and institutions which were frozen by the United States Government during World War II (including over $400,000,000 in bank deposits) were assets whose beneficial owners were believed to include victims of the Holocaust.

(3) In the aftermath of the war, the Congress recognized that some of the victims of the Holocaust whose assets were among those seized or frozen during the war might not have any legal heirs, and legislation was enacted to authorize the transfer of up to $3,000,000 of such assets to organizations dedicated to providing relief and rehabilitation for survivors of the Holocaust.

(4) Although the Congress and the Administration authorized the transfer of such amount to the relief organizations referred to in paragraph (3), the enormous administrative difficulties and cost involved in proving legal ownership of such assets, directly or beneficially, by victims of the Holocaust, and proving the existence or absence of heirs of such victims, led the Congress in 1962 to agree to a lump-sum settlement and to provide $500,000 for the Jewish Restitution Successor Organization of New York, such sum amounting to ⅙th of the authorized maximum level of ''heirless'' assets to be transferred.

(5) In June of 1997, a representative of the Secretary of State, in testimony before the Congress, urged the reconsideration of the limited $500,000 settlement.

(6) While a precisely accurate accounting of ''heirless'' assets may be impossible, good conscience warrants the recognition that the victims of the Holocaust have a compelling moral claim to the unrestituted portion of assets referred to in paragraph (3).

(7) Furthermore, leadership by the United States in meeting obligations to Holocaust victims would strengthen—

(A) the efforts of the United States to press for the speedy distribution of the remaining nearly 6 metric tons of gold still held by the Tripartite Commission for the Restitution of Monetary Gold (the body established by France, Great Britain, and the United States at the end of World War II to return gold looted by Nazi Germany to the central banks of countries occupied by Germany during the war); and

(B) the appeals by the United States to the 15 nations claiming a portion of such gold to contribute a substantial portion of any such distribution to Holocaust survivors in recognition of the recently documented fact that the gold held by the Commission includes gold stolen from individual victims of the Holocaust.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide a measure of justice to survivors of the Holocaust all around the world while they are still alive.

(2) To authorize the appropriation of an amount which is at least equal to the present value of the difference between the amount which was authorized to be transferred to successor organizations to compensate for assets in the United States of heirless victims of the Holocaust and the amount actually paid in 1962 to the Jewish Restitution Successor Organization of New York for that purpose.

(3) To facilitate efforts by the United States to seek an agreement whereby nations with claims against gold held by the Tripartite Commission for the Restitution of Monetary Gold would contribute all, or a substantial portion, of that gold to charitable organizations to assist survivors of the Holocaust.

SEC. 102. DISTRIBUTIONS BY THE TRIPARTITE GOLD COMMISSION.

(a) DIRECTIONS TO THE PRESIDENT.—The President shall direct the commissioner representing the United States on the Tripartite Commission for the Restitution of Monetary Gold, established pursuant to Part III of the Paris Agreement on Reparation, to seek and vote for a timely agreement under which all signatories to the Paris Agreement on Reparation, with claims against the monetary gold pool in the jurisdiction of such Commission, contribute all, or a substantial portion, of such gold to charitable organizations to assist survivors of the Holocaust.

(b) AUTHORITY TO OBLIGATE THE UNITED STATES.—

(1) IN GENERAL.—From funds otherwise unobligated in the Treasury of the United States, the President is authorized to obligate subject to subsection (2) an amount not to exceed $30,000,000 for distribution in accordance with subsections (a) and (b).

(2) CONFORMANCE WITH BUDGET ACT REQUIREMENT.—Any budget authority contained in paragraph (1) shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

SEC. 103. FULFILLMENT OF OBLIGATION OF THE UNITED STATES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such sums as may be necessary for fiscal years 1998, 1999, and 2000, not to exceed a total of $25,000,000 for all such fiscal years, for distribution to organizations as may be specified in any agreement concluded pursuant to section 102.

(b) ARCHIVAL RESEARCH.—There are authorized to be appropriated to the President $5,000,000 for archival research and translation services to assist in the restitution of assets looted or extorted from victims of the Holocaust and such other activities that would further Holocaust remembrance and education.

TITLE II—WORKS OF ART

SEC. 201. FINDINGS.

Congress finds as follows:

(1) Established pre-World War II principles of international law, as enunciated in Articles 47 and 56 of the Regulations annexed to the 1907 Hague Convention (IV) Respecting the Laws and Customs of War on Land, prohibited pillage and the seizure of works of art.

(2) In the years since World War II, international sanctions against confiscation of works of art have been amplified through such conventions as the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which forbids the illegal export of art work and calls for its earliest possible restitution to its rightful owner.

(3) In defiance of the 1907 Hague Convention, the Nazis extorted and looted art from individuals and institutions in countries it occupied during World War II and used such booty to help finance their war of aggression.

(4) The Nazis' policy of looting art was a critical element and incentive in their campaign of genocide against individuals of Jewish and other religious and cultural heritage and, in this context, the Holocaust, while standing as a civil war against defined individuals and civilized values, must be considered a fundamental aspect of the world war unleashed on the continent.

(5) Hence, the same international legal principles applied among states should be applied to art and other assets stolen from victims of the Holocaust.

(6) In the aftermath of the war, art and other assets were transferred from territory previously controlled by the Nazis to the Union of Soviet Socialist Republics, much of which has not been returned to rightful owners.

SEC. 202. SENSE OF THE CONGRESS REGARDING RESTITUTION OF PRIVATE PROPERTY, SUCH AS WORKS OF ART.

It is the sense of the Congress that consistent with the 1907 Hague Convention, all governments should undertake good faith efforts to facilitate the return of private and public property, such as works of art, to the rightful owners in cases where assets were confiscated from the claimant during the period of Nazi rule and there is reasonable proof that the claimant is the rightful owner.

NATIONAL WEEK OF RECOGNITION FOR DOROTHY DAY AND THOSE WHOM SHE SERVED

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 163 introduced earlier today by Senator MOYNIHAN, D'AMATO, and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 163) expressing the sense of the Senate on the 100th anniversary of the birth of Dorothy Day, and designating the week of November 8 through November 14, 1997 as ''National Week of Recognition for Dorothy Day and those whom she served.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MOYNIHAN. Mr. President, I rise today to introduce a sense of the Senate resolution commemorating the 100th anniversary of the birth of Dorothy Day, a woman who embodies the very idea of service to others. I am pleased to be joined by Senators D'AMATO, WELLSTONE, LEVIN, DODD, TORRICELLI, REED, DURBIN, MIKULSKI, and KENNEDY in paying tribute to her life.

The life of Dorothy Day is central to modern Catholic social thought. Hers was a radical brand of discipleship, akin to what the German theologian Dietrich Bonhoeffer described as ''costly grace'' in The Cost of Discipleship. She lived a life of voluntary poverty and hardship, forsaking material comfort and opting to live among the poor whom she served. Just as Jesus befriended the tax collector and the prostitute, Dorothy Day embraced the drug addicted and the disenfranchised. She saw Christ in everyone—especially in the poor and the oppressed—and treated people accordingly. In short, she lived the Gospel.

In 1933, Dorothy Day and Peter Maurin joined to found the Catholic Worker Movement and the Catholic Worker newspaper ''to realize in the individual and society the express and implied teachings of Christ.'' That same year, they opened the first Catholic Worker Hospitality house, St. Joseph's House, in Manhattan's Lower East Side. The country was, by then, in the throes of the Great Depression, a period of suffering unknown to this country before or since. Dorothy Day ministered to the physical and spiritual needs of the legions of poor who arrived on the doorstep at St. Joseph House. Today, some 64 years after its creation, the Catholic Worker Movement remains a vibrant legacy to her life. There are now more than 125 Catholic Worker ''Houses of Hospitality'' in the United States and around the world.

Perhaps Dorothy Day's life was summed up best by those at the University of Notre Dame who bestowed the Laetare Medal upon her in 1972 for ''comforting the afflicted and afflicting the comfortable virtually all of her life.'' Indeed she did and we are all the better for it.

I ask unanimous consent that the text of a tribute by Patrick Jordan, who knew Dorothy Day from his days living at the Catholic Worker, from Commonweal and the text of the Resolution be printed into the RECORD.

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

[From the Commonweal, Oct. 24, 1997]

AN APPETITE FOR GOD

(By Patrick Jordan)

Dorothy Day was born on Pineapple Street in Brooklyn Heights on November 8, 1897. On the hundredth anniversary of her birth, her spirit is alive in the Catholic Worker movement she and Peter Maurin founded in 1933. The movements is still building, a rather remarkable feat in the history of American religious communities, now with over 125 houses and farming communes in the United States and in seven other countries. There are a variety of Catholic Worker publications that display strong writing and intellectual vitality: critical voices in the midst of the capitalist state, and lively antidotes to the spirit of bourgeois Christianity. Day and Maurin would be pleased.

In a real sense, Day was an Augustinian figure. She was a captivating, commanding presence, full of personal paradoxes (vulnerable and yet like steel) and inconsistencies (patient but fretful), who nonetheless cohered and remained consistently stalwart. She had been around (as she attests in her classic spiritual autobiography. The Long Loneliness), knew the full joys and sorrows of life from her harsh experience, and had gone through a life-searing conversion. She possessed marvelous observational skills and wrote with uncommon beauty and alacrity about her times: describing the challenge of

living good, and yes, holy lives in an era of warring empires. She loved heroic figures, and aspired to be one. She hoped that her books would be read by millions and would lead to nonviolent, revolutionary change. She had a sense of humor about herself and her work, and told the story of having been asked to speak at a college on the topic ''Saints and Heroes.'' She was greatly surprised (and delighted) when she found the lecture hall packed. Only later did she discover the reason: her talk had been mistakenly billed ''Saints and Eros.''

For me, Dorothy Day was the most engaging and engaged person I have ever met. Even now, seventeen years after her death in 1980, I think of her almost daily, with deep affection. What would she have thought of this moral dilemma, this political situation, this church teaching? How would she have approached a certain crisis, dealt with that obnoxious persons? If the problem happens to be several-sided and particularly dicey, I can be sure her response would be challenging, distinct, and unpredictable. Not that it would necessarily come as a surprise (she used to love to repeat the phrase, based on her sense of the Gospels. ''There are always answers; they are just not calculated to soothe''). Her principles were doggedly clear: The admonitions of the Gospels, the Psalms, and Saint Paul. These ran so deeply in her that they seemed to issue from her marrow. When TV newsman Mike Wallace asked her, ''Does God love murderers, does he love a Hitler, a Stalin?'' she responded reflexively: ''God loves all men, and all men are brothers''.

In person, even in her seventies, Day was physically striking: tall, lean, her pale blue eyes keen but not intrusive. In the ideal movie of Dorothy's life, Jessica Lange would be cast in the part. Dorothy was one of those individuals whose presence can affect the tone of whole gatherings. When she entered a crowded room, people with their backs to the door would turn spontaneously. Yet she was unfailingly modest, and almost painfully shy in public.

Dorothy's mind, while not that of a trained intellectual, was one of the most acute and supple I have seen at work; she was highly intuitive, shrewd when it came to money, morally rugged. She seemed to know herself with perfect clarify, the fruit of a lifetime of self-examination: ''Cleanse us of our unknown faults,'' she would repeat often. Lecturing about the Catholic Worker, she would say of herself: ''There is always a subtle self-aggrandizement. One may not intend it, yet there it crops out to humiliate one. Perhaps it is good to have this come out in the open.'' Both spiritually and personally, she was the genuine article.

If you went to talk to Dorothy in her small room on the third floor of the East First Street house, where she lived from 1968–76, you might be ensnared for hours. She would regale you with stories. In her early years as a reporter she had interviewed everyone from Trotsky to Jack Dempsey. She knew Eugene O'Neill and Dos Passos, and had inspired Auden. She had testified before Congress on conscientious objection, and while in Moscow in 1971, had defended Solzhenitsyn before the Soviet writers' group, breaking up their meeting. She had been shot at for her civil rights protests, been thrown into solitary confinement; she had taken on both church and state, loved both the opera and folk singer Joan Baez, was a doting mother, grandmother, great-grandmother, received Communion from the hands of the pope, and was a voracious reader. Yet for all that, when you were with her you felt perfectly at home; so much so you wanted to stay, maybe forever—at least I wanted to.

Even after over forty years of the hard Catholic Worker life, Dorothy's voice was young and there was merriment in her laughter. Vivian Gornick, the feminist writer, did a perspective on Day for the Village Voice in November 1969. At one point during their four-hour conversation, Gornick sensed that Dorothy had read her thoughts—a not uncommon experience if you spent time with her. While Day had not been critical of Gornick, the experience had raised questions for the latter. According to Martin Buber, the zaddik (or righteous teacher) responds to people's needs but first elevates them. Sitting there in the soup kitchen at 36 First Street, Gornick observed in Day ''a love that categorically refuses to deny the irreducible humanity'' of each person. ''I felt in her a woman who has done many things she would wish not to have done; . . . been alone a long, long time in a curious, exalted, exhausting manner; and more important, that all of this was not a comfortable matter of the past; all of this was an ongoing affair . . . [in which Day's] faith is put through the fires daily.'' What comes through in Gornick's article is the journalist's keen respect for the older woman.

Dorothy once told Robert Coles—in a different context—''I have never wanted to lecture people; I have hoped to act in such a way that I will be reaching out to many others who will never be part of the Catholic Worker movement.'' It seems to have worked with Gornick and countless others.

I recently asked Tom Sullivan and Nina Polcyn Moore, both old friends and Catholic Workers, what made Day tick.

Sullivan, now in his eighties and in poor health in New York City, told me ''her spirituality is basic. She started with the saints, and was oriented to the early Christians.'' For Moore, who now lives in Illinois, it was a matter of ''love, divine and human.'' Dorothy ''was not content with anything but the best,'' Moore told me. ''She loved God with all her heart.''

But it was Day's constancy in the hard vocation she had chosen that most amazed Moore: ''Her availability to people and events, her fidelity to the Gospels, and her embracing the precariousness of the Worker life are keys to her greatness.'' According to Moore, who traveled with her here and abroad, Day evolved from a young radical to a person of international significance ''because she was on fire with the love of God.''

In *From Union Square to Rome,* Dorothy's first book about her conversion, she defines a mystic as someone in live with God: ''Not one who loves God, but who is *in love with* God.'' Years later, she quoted with relish Sonya's last line in *Uncle Vanya*: ''I have faith Uncle, I have fervent, passionate faith.''

That faith was evident in every aspect of Day's life, I suppose it is what attracted so many of us to her: In seeing her faith we experienced our own hoped-for faith being validated and strengthened. ''Every act of faith increases your faith,'' she instructed me over and over. But her faith was not a cold series of propositions or legalisms. It was rather a vital relationship. ''More and more I see [that] prayer is the answer,'' she wrote in 1970. ''It is the clasp of the hand, the joy and keen delight in the consciousness of the Other. Indeed, it is like falling in love.'' Not many people can write or speak of prayer that way because we don't practice it. C.S. Lewis advised that we develop not simply a spirituality, but an ''appetite for God.''

To see Dorothy at prayer was to observe someone completely engrossed. I can vividly picture her praying, off to the left side in one of the pews at Nativity Church in Manhattan. Coupled with this memory is another of my walking into her room one Saturday afternoon as she was listening to the opera. It was Wagner and Dorothy's face was transfixed. She didn't know I was there, and I retreated hastily, almost embarrassed to have intruded at such a private moment. But from those instances I learned something about the intercourse between prayer and ecstasy, and how they relate to beauty and love, human and divine.

For Nina Moore, it was Day's constancy in prayer, study, and reading that explained what could be explained about her continued spiritual growth. Lacking the structure of a formal monastic regimen (she was a Benedictine oblate and attached to the Jesu Caritas fellowship), Day had to steal the early morning hours for her spiritual exercises. She did this almost daily, year in and out: ''My strength . . . returns to me with my cup of coffee and the reading of the psalms,'' she said.

Dorothy's take on life of the soul was anything but ''spiritualized.'' It was sacramental and sensual, but it was not romantic. ''I can't bear the romantics,'' she told Gornick. ''I want a religious realist. I want one who prays to see things as they are and do something about it.'' Her own faith had required a terrible price: the end of her marriage and the breakup of her family: ''For me, Christ was not bought for thirty pieces of silver,'' she wrote forty years after her conversion, ''but with my heart's blood. We buy not cheap in this market.''

What was essential for Dorothy—and what a popular mid-century retreated movement and the Catholic Workers fostered (see box)—was the serious attention and self-discipline required for growth in the life of the spirit. In this matter, I believe, Dorothy's mentor was Friedrich von Hügel, who wrote, in Victorian style, of the ''costingness'' of such growth. ''Plant yourself,'' von Hügel counseled,'' on foundations that are secure: God, Christ, suffering, the Cross.'' I often saw Dorothy with his short classic, The Life of Prayer.

But the life of the spirit has to be cultivated, not merely for the sake of one's own self-improvement, but for the well-being of the whole church. As Dorothy prayed in Rome in 1965: ''Give us, O Lord, peace, strength, and joy, so that we in turn may give them to others.''

Theologically, Dorothy Day's chief contributions have to do with the issues of freedom, poverty, and violence.

Freedom. Perhaps her deepest personal, intuitive insight. Without freedom, there can be neither faith nor love.

When Dorothy first met Peter Maurin in 1932, she was impressed that he was carrying two books in his building pockets: Saint Francis and Peter Kropotkin. Kropotkin known as the anarchist prince, was, like Charles de Foucauld, a soldier and scientist. He had forsaken his title and had been jailed and exiled for agitating for reform in Czarist Russia. Even before meeting Maurin, Day held nonviolent anarchist views (she was a decentralist who felt more at home with the Wobblies than the Communists). The theoretical value Day saw in anarchism was its emphasis on personal freedom and responsibility, and on developing social patterns that foster them.

On the spiritual level, the highest rung of being, God gives freedom so that men and women can become human; thus the story of Adam and Eve. Charles Péguy, poet and essayist, and an influence on both Maurin and Day, has God address the issue this way: ''But what kind of salvation would it be that was not free?'' And then God validates ''man's'' power ''to decide'' by declaring: ''And that freedom of his is my creation'' (and therefore good).

Along with freedom comes the possibility—the inevitability—of sin. On this point Day would refer to Augustine and Julian of Norwich: God has already repaired the worst

possible catastrophe the Fall) by taking on our human flesh, suffering our fate, and redeeming us.

Unlike many birthright Catholics, Day did not feel constrained by the institution. She took as her own Saint Paul's phrase—''You are no longer foreigners and aliens, but fellow citizens with the saints'' (Ephesians 2:19)—and placed her trust in the church, which she loved and which is itself held accountable to the Gospels. For encouragement, Day looked to the lives of the saints, whom she found to be anything but toadies. Partiarchy? When it came to ''this business of 'asking Father' what to do about something,'' she said, it ''never occurred to us.''

At Vatican II, she noted her admiration for John Courtney Murray. She felt grateful for the church's clear but long overdue statement on religious freedom and the primacy of conscience.

Poverty. As noted above, Maurin brought with him Kropotkin and Francis. For the Christian, poverty is not only a matter of the soul—it is a social concern. It entails not only personal spiritual obligations, but matters of strict justice and compassion.

We begin by looking at our own lives. When asked to address the relations between individuals, Day said, Jesus always emphasized the problems of wealth and poverty. Looking at society this way, Day was explicit: ''It is impossible, save by heroic charity, to live in the present social order and be a Christian.'' After reading Abbie Hoffman's Revolution for the Hell of It in 1968, she commented: ''A terrifying book; bitterness, hatred, hell unleashed. The fruits of war, materialism, prosperity. . . . God help our children.''

Dorothy Day's own approach was twofold. First, there was a line she repeated often from Saint John of the Cross: ''Where there is no love, put love, and you will find love.'' And second, cultivate a life of detachment and share the plight of the poor: ''We [Catholic Workers] believe in an economy based on human needs, rather than the profit motive. . . .We are not judging [wealthy] individuals, but are trying to make a judgment on the system . . . which we try to withdraw from as much as possible. . . . What is worst of all is *using* God and religion to bolster up our own greed, our own attachment to property, and putting God and country on an equality.'' Finally, she pointed out, ''we are not going to win the masses to Christianity until we live it,'' and that included having a willingness to embrace poverty.

For Day, to live poorly meant to *share the life of the poor:* ''Let us love to live with the poor because they are especially loved by Christ.'' Each person who presents himself or herself to us—rich, middle class, or poor—must be given love, ''not because it might be Christ . . . but because they *are* Christ.'' How did she know for sure? ''Because we have seen his hands and his feet in the poor around us. . . . We start by loving them for him, and soon we love them for themselves, each one a unique person, most special. . . . It is through such exercises that we grow, and the joy of our vocation assures us we are on the right path.'' According to Kate Hennessy, Day's granddaughter, ''she turned the life of poverty into something dynamic, full of richly simple moments for those who have nothing.''

How Dorothy Day managed to keep her psychological wholeness over the years in the disorder, disease, mental confusion, and violence that mark Catholic Worker houses was a practical miracle to me. ''Pray and endure,'' she would repeat. Some of her stamina came from knowing the critical distinction between love and pity. ''The law of love is reciprocity,'' Georges Bernanos had written, ''and reciprocity is not possible where there is pity.'' Martin Buber explained it more eloquently: ''Help is no virtue, but an artery of existence.'' To really help someone, however, ''the helper must live with the other; only help that arises out of living with the other can stand before the eyes of God.'' Day insisted that she ''would not dare write or speak or follow the vocation God has given me to work with the poor and for peace if I did not have the constant reassurance of the Mass.''

Violence I need not recount at length Day's work for justice, peace, and nonviolence. Historically, she had a critical if indirect bearing on Vatican II's condemnation of nuclear war and its endorsement of the right to conscientious objection. Her pacifist stand in World WAr II was intensely controversial, not only among Americans in general but even among Catholic Workers; Mike Wallace's question indicates that it still is today. Day's repeated stints in jail for protesting war preparation and the war economy—including her challenge that people withdraw from participating in both—achieved modest success, symbolically—by helping to end the air-raid drills in New York City during the fifties and sixties—and practically in the lives of not a few individuals who refused induction, changed their jobs, or resisted paying war taxes.

Day's staunch views on pacifism drew a deep line between just-war teaching and gospel nonviolence. She shared with Saint James the view that the roots of violence are fear, lack of forgiveness, and greed. Fear leads us to strike out at enemies; it may even help to create them. Day believed the Catholic Worker must be a school of nonviolence. The young volunteers who came in search of their vocation, she wrote, ''learn not only to love with compassion, but to overcome fear, that dangerous emotion that precipitates violence. They may go on feeling fear, but they know the means [the 'spiritual weapons,' as she called them, of self-discipline, willingness to take up the cross, forgiving 'seventy times seven,' and readiness to lay down one's life for one's fellows] to overcome it.'' Here, prayer and daily Mass were the best offense. From her own testimony of sitting through nights of threatened violence in the racially divided South in the 1960s, it is prayer that ''gives courage.''

Was she critical of her own track record? Always. Repeatedly I heard her say of herself and her co-workers, quoting the Letter to the Hebrews: ''We have not yet resisted unto blood.'' She felt she might yet prove to be as avenging as any potential adversary.

One of Day's most notable achievements for peace took place quietly behind the scenes. In Rome in 1965 for the last session of the council, she joined a small group of women at a convent to fast for ten days, on water only, as the conciliar debate raged over what would be the church's official teaching on modern war.

Dorothy did not like to fast (she said her besetting sins were gluttony and sloth), and made sure she had filled her senses by going to the opera (Cavalleria Rusticana) before the fast. Her report in the November 1995 Catholic Worker included the daily schedule of the group and concluded as follows:

As for me, I did not suffer at all from the hunger or headache or nausea which usually accompanied the first few days of a fast, but I had offered my fast in part for the victims of famine all over the world, and it seemed to me that I had very special pains. They were certainly of a kind I have never had before, and they seemed to pierce the very marrow of my bones . . . They were not like the arthritic pains, which, aggravated by tension and fatigue, are part of my life now that I am sixty-eight. One accepts them as part of age, and also part and parcel of the life or work, which is the lot of the poor. So often I see grandmothers in Puerto Rican families bearing the burden of children, the home, cooking, sewing, and contributing to the work of mother and father, who are trying to make a better life for their children. I am glad to share their fatigue with them.

But these pains . . . seemed to reach into my very bones, and I could only feel that I had been given some little intimation of the hunger of the world. God help us, living as we do, in the richest country in the world, and so far from approaching the voluntary poverty we esteem and reach toward. . . May we try harder to do more in the future.

This is vintage Dorothy Day: the immediacy of concerns; the challenge, complexity, and interrelation of the big issues (war and poverty); the incorporation of her personal experience; the self-criticism and pledge to do better; and the radical, foundational nature of her Christian perspective.

No retrospect of Dorothy Day's spirituality would be complete without mentioning her tremendous personal struggles. These centered, in her late years, on two related areas: discouragement and perseverance. From her earliest Catholic Worker writings, Day speaks of discouragement in the work (see, House of Hospitality). The utter hopelessness of the situation of some of the people with whom she lived (''we are a community of need, not an international community'') included physical violence, broken families, addiction, suicides, evictions, fires, poor food, attrition of co-workers. All of these could be overwhelming. Dorothy was sometimes so jangled by them—and by family concerns, overwork, travel, writing, speech-making, and innumerable obligations—that she would break into tears. ''Don't let yourself get into this state!'' she would tell me, better escaping for a reprieve to her sister's or daughter's.

Dorothy also told me that twice in her life she had overcome serious bouts of depression by reading herself out of them (she recommended Dickens), but said that if she ever were to experience such depression again, she would consider shock treatment.

Another line of cure—which she had learned from her mother—was to clean the house. And then there were the theater and music: ''Saw My Fair Lady. A very good cure for melancholy. Theme: Man's capacity to change.'' Again, ''I am now listening to a concert, Brahms's Second Symphony, joyful music to heal my sadness. All day I have felt sad. I am oppressed by a sense of failure, of sin.''

On the conjunction between what Dorothy called ''the dark night of the senses and the dark night of the soul,'' she reflected: ''It seems to me that they often intermingle.'' this led her to prescribe Ruskin's ''Duty of Delight'': ''I found a copy of Ruskin, The True and the Beautiful,'' she wrote while visiting her daughter in Vermont, and ''the beautiful quotation on the duty of delight. Making cucumber pickles, chili sauce, and grape juice. Delightful smells.'' And the ''duty'' must be taken seriously, not only for oneself but ''for the sake of others who are on the verge of desperation.''

And then there was use of the other serious spiritual weapons: prayer, Scripture, community, the sacraments. The ancient Christian writers had long been concerned with acedia, spiritual sloth, which is associated with a failure against hope. Depression, a modern manifestation, is, in part, a constricting of that virtue, and of the power of the will to act. Day often prayed to Saint Ephraim, one of the desert fathers. He seemed to have struggled with the problem of discouragement, and spoke of the distress caused by his own procrastination. The best practical remedy for such a condition, Day

noted, was ''faithfulness to the means to overcome it: recitation of the psalms each day, prayer and solitude, and by these means arriving—or hoping to arrive—at a state of well-being.'' The psalms she found particularly helpful in this regard: ''I have stilled and quieted my soul'' (Ps. 131), and ''Relieve the troubles of my heart'' (Ps. 25). She would also quote Saint Paul's Letter to the Romans, chapter 8—''Nothing can separate us from the love of Christ''—and his advice not to judge others or even oneself, for Christ understands our failures: he was, after all, the world's greatest failure.

Among contemporary spiritual writings, she recommended in this regard Dom Hubert van Zeller's Approach to Calvary: ''Awoke at 5:30,'' she penned in 1965. ''Usual depression over failures, inefficiency, incapacity to cope. Van Zeller's book invaluable, teaching on how to accept all this discouragement, which he says will increase with age. . . . One must just keep going.''

And that connects with the matter of perseverance, a subject on which she corresponded sporadically with Thomas Merton: ''I am often full of fear about my final perseverance,'' she told him in 1960. But then, during his own long struggles with the problem, she advised: Your work ''is the work God wants of you, no matter how much you want to run away from it.''

She eventually came to terms with the fact that her difficulties were not going to end in this life. In the last book she gave me, Spiritual Autobiography of Charles de Foucauld (she was always giving gifts and books, prayer books and Bibles especially), she had underlined the following passage from de Foucauld: ''Our difficulties are not a transitory state of affairs. . . . No, they are the normal state of affairs and we should reckon on being in angustia temporum ['in straightness of times,' Dan. 9:21] all our lives, so far as the good we want to do is concerned.''

In 1960, Dorothy Day commented favorably on a then-current appraisal of the state of the American Catholic church, rendered by the Jesuit theologian, Gustave Weigel. Three things were most needed in the U.S. church, said Weigel: Austerity, preached and lived; a deeper awareness of the reality of God; and a truer and more effective love for all people, including those who are our enemies. One could not find a more succinct summary of Day's own views. In 1968, she complained that the Catholic press in the United States was too much concerned with the problems of authority, birth control, and celibacy, whereas the real problems were ''war, race, poverty and wealth, violence, sex, and drugs.'' Some things change slowly. Or not at all.

Without the saints, Bernanos said fifty years ago, the church is only dead stones: Without them, the very grace lying within the church's institutional and sacramental forms remains fallow. Despite the unparalleled upheavals of our times, grace has not remained hidden. We have been its appealing power.

Mr. NICKLES. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place.

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

The resolution (S. Res. 163) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 163

Whereas November 8, 1997, marks the 100th anniversary of the birth of Dorothy Day on Pineapple Street in Brooklyn, New York;

Whereas Dorothy Day was a woman who lived a life of voluntary poverty, guided by the principles of social justice and solidarity with the poor;

Whereas in 1933 Dorothy Day and Peter Maurin founded the Catholic Worker Movement and the Catholic Worker newspaper ''to realize in the individual and society the express and implied teachings of Christ'';

Whereas the Catholic Worker ''Houses of Hospitality'' founded by Dorothy Day have ministered to the physical and spiritual needs of the poor for over 60 years;

Whereas there are now more than 125 Catholic Worker ''Houses of Hospitality'' in the United States and throughout the world;

Whereas in 1972 Dorothy Day was awarded the Laetare Medal by the University of Notre Dame for ''comforting the afflicted and afflicting the comfortable virtually all of her life'';

Whereas upon the death of Dorothy Day in 1980, noted Catholic historian David O'Brien called her ''the most significant, interesting, and influential person in the history of American Catholicism'';

Whereas His Emminence John Cardinal O'Connor has stated that he is considering recommending Dorothy Day to the Pope for Cannonization; and

Whereas Dorothy Day serves as inspiration for those who strive to live their faith: Now, therefore, be it

Resolved, That the Senate—

(1) expresses deep admiration and respect for the life and work of Dorothy Day;

(2) recognizes that the work of Dorothy Day improved the lives of countless people and that her example has inspired others to follow her in a life of solidarity with the poor;

(3) encourages all Americans to reflect on how they might learn from Dorothy Day's example and continue her work of ministering to the needy; and

(4) designates the week of November 8, 1997, through November 14, 1997, as the ''National Week of Recognition for Dorothy Day and Those Whom She Served''.

SEC. 2. TRANSMITTAL.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to—

(1) Maryhouse, 55 East Third Street, New York City, New York;

(2) St. Joseph House, 36 East First Street, New York City, New York; and

(3) His Emminence John Cardinal O'Connor of the Archdiocese of New York, New York City, New York.

CORRECTING THE ENROLLMENT OF S. 830

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 69 submitted earlier by Senator JEFFORDS.

I further ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 69) was agreed to.

The concurrent resolution is as follows:

S. CON. RES. 69

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 119(b) of the bill:

(A) Strike paragraph (2) (relating to conforming amendments).

(B) Strike ''(b) SECTION 505(j).—'' and all that follows through '''(3)(A) The Secretary shall'' and insert the following:

''(b) SECTION 505(j).—Section 505(j) (21 U.S.C. 355(j)) is amended by adding at the end the following paragraph:

'''(9)(A) The Secretary shall''.

(2) In section 125(d)(2) of the bill, in the matter preceding subparagraph (A), insert after ''antibiotic drug'' the second place such term appears the following: ''(including any salt or ester of the antibiotic drug)''.

(3) In section 127(a) of the bill: In section 503A of the Federal Food, Drug, and Cosmetic Act (as proposed to be inserted by such section 127(a)), in the second sentence of subsection (d)(2), strike ''or other criteria'' and insert ''and other criteria''.

(4) In section 412(c) of the bill:

(A) In subparagraph (1) of section 502(e) of the Federal Food, Drug, and Cosmetic Act (as proposed to be amended by such section 412(c)), in subclause (iii) of clause (A), insert before the period the following: ''or to prescription drugs''.

(B) Strike ''(c) MISBRANDING.—Subparagraph (1) of section 502(e)'' and insert the following:

''(c) MISBRANDING.—

''(1) IN GENERAL.—Subparagraph (1) of section 502(e)''.

(C) Add at the end the following:

''(2) RULE OF CONSTRUCTION.—Nothing in this Act, or the amendments made by this Act, shall affect the question of the authority of the Secretary of Health and Human Services regarding inactive ingredient labeling for prescription drugs under sections of the Federal Food, Drug, and Cosmetic Act other than section 502(e)(1)(A)(iii).''.

(5) Strike section 501 of the bill and insert the following:

''SEC. 501. EFFECTIVE DATE.

''(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

''(b) IMMEDIATE EFFECT.—Notwithstanding subsection (a), the provisions of and the amendments made by sections 111, 121, 125, and 307 of this Act, and the provisions of section 510(m) of the Federal Food, Drug, and Cosmetic Act (as added by section 206(a)(2)), shall take effect on the date of enactment of this Act.''.

CORRECTING OF TECHNICAL ERROR IN ENROLLMENT OF S. 1026

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 70 submitted earlier by Senator D'AMATO. I further ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 70) was agreed to.

The concurrent resolution is as follows:

S. CON. RES. 70

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1026) to reauthorize the Export-Import Bank of the United States, the Secretary of the Senate shall strike subsection (a) of section 2 and insert the following:

''(a) IN GENERAL.—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking 'until' and all that follows through 'but' and inserting 'until the close of business on September 30, 2001, but'.''.

AMENDMING SECTION 13031 OF THE OMNIBUS RECONCILIATION ACT OF 1985

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3034, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3034) to amend section 13031 of the Omnibus Reconciliation Act of 1985, Relating to Customs User Fees, to allow the use of such fees to provide for Customs inspectional personnel in connection with the arrival of passengers in Florida, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place.

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

The bill (H.R. 3034) was deemed read a third time, and passed.

MAKING TECHNICAL CORRECTIONS TO THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Senate bill 1565 introduced earlier today by Senator ABRAHAM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1565) to make technical corrections to the Nicaraguan Adjustment and Central American Relief Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 1565) was considered, read a third time, and passed, as follows:

S. 1565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS TO NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.

(a) ADJUSTMENT OF STATUS.—Section 202(a)(1) of the Nicaraguan Adjustment and Central American Relief Act is amended—

(1) in the matter preceding subparagraph (A), by striking ''Notwithstanding section 245(c) of the Immigration and Nationality Act, the'' and inserting ''The''; and

(2) in subparagraph (B)—

(A) by striking ''is otherwise eligible to receive an immigrant visa and''; and

(B) by striking ''(6)(A), and (7)(A)'' and inserting ''(6)(A), (7)(A), and (9)(B)''.

(b) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—Section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act is amended—

(1) in the matter preceding subparagraph (A), by striking ''Notwithstanding section 245(c) of the Immigration and Nationality Act, the'' and inserting ''The''; and

(2) in subparagraph (D)—

(A) by striking ''is otherwise eligible to receive an immigrant visa and'';

(B) by striking ''exclusion'' and inserting ''inadmissibility''; and

(C) by striking ''(6)(A), and (7)(A)'' and inserting ''(6)(A), (7)(A), and (9)(B)''.

(c) TRANSITIONAL RULES WITH REGARD TO SUSPENSION OF DEPORTATION.—Section 309(c)(5)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as added by section 203(a)(1) of the Nicaraguan Adjustment and Central American Relief Act is amended—

(1) in clause (i), in the matter preceding subclause (I), by inserting ''of this paragraph'' after ''subparagraph (A)'';

(2) in clause (ii), by striking ''this clause (i)'' and inserting ''clause (i)''.

(d) TEMPORARY REDUCTION IN DIVERSITY VISAS.—Section 203(d) of the Nicaraguan Adjustment and Central American Relief Act is amended—

(1) in paragraph (1) by inserting ''otherwise'' before ''available under that section''; and

(2) in paragraph (2)(A)—

(A) by striking ''309(c)(5)(C)'' and inserting ''309(c)(5)(C)(i)''; and

(B) by striking ''year exceeds—'' and inserting ''year; exceeds''.

(e) TEMPORARY REDUCTION IN OTHER WORKERS' VISAS.—Section 203(e)(2)(A) of the Nicaraguan Adjustment and Central American Relief Act is amended by striking ''(d)(2)(A), exceeds—'' and inserting ''(d)(2)(A); exceeds''.

(f) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect upon the enactment of the Nicaraguan Adjustment and Central American Relief Act (as contained in the District of Columbia Appropriations Act, 1998); and

(2) shall be effective as if included in the enactment of such Act.

REIMBURSEMENT OF MEMBERS OF THE ARMY DEPLOYED IN EUROPE

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 2796, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2796) to authorize the reimbursement of members of the Army deployed to Europe in support of operations in Bosnia for certain out-of-pocket expenses incurred by the members during the period beginning on October 1, 1996 and ending on May 31, 1997.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place.

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

The bill (H.R. 2796) was read a third time, and passed.

REQUIRING THE ATTORNEY GENERAL TO ESTABLISH A PROGRAM IN LOCAL PRISONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 1493, and further that the Senate proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1493) to require the Attorney General to establish a program in local prisons to identify, prior to arraignment, criminal aliens and aliens who are unlawfully present in the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 1493) was read a third time, and passed.

THE GUN ACT OF 1997

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 266, Senate bill 191.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 191) to throttle criminal use of guns.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment

to strike all after the enacting clause and inserting in lieu thereof the following:

S. 191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended—

(1) by striking ''(c)'' and all that follows through ''(2)'' and inserting the following:

''(c) POSSESSION OF FIREARM DURING COMMISSION OF CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—

''(1) TERM OF IMPRISONMENT.—

''(A) IN GENERAL.—Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

''(i) be sentenced to a term of imprisonment of not less than 5 years; and

''(ii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

''(B) EXCEPTION FOR CERTAIN OFFENSES.—If the firearm possessed by a person convicted of a violation of this subsection—

''(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; and

''(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

''(C) EXCEPTION FOR CERTAIN OFFENDERS.—In the case of a second or subsequent conviction under this subsection, a person shall—

''(i) be sentenced to a term of imprisonment of not less than 25 years; and

''(ii) if the firearm at issue is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to a term of imprisonment for life.

''(D) PROBATION AND CONCURRENT SENTENCES.—Notwithstanding any other provision of law—

''(i) a court shall not place on probation any person convicted of a violation of this subsection; and

''(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

''(2) DEFINITION OF 'DRUG TRAFFICKING CRIME'.—''; and

(2) in paragraph (3)—

(A) by striking ''(3) For'' and inserting the following:

''(3) DEFINITION OF 'CRIME OF VIOLENCE'.—For''; and

(B) by indenting each of subparagraphs (A) and (B) 2 ems to the right.

(b) CONFORMING AMENDMENT.—Section 3559(c)(2)(F)(i) of title 18, United States Code, is amended by inserting ''firearms possession (as described in section 924(c));'' after ''firearms use;''.

Mr. NICKLES. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The amendment was agreed to.

The bill, S. 191, as amended, was considered read for a third time, and passed.

S. 191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended—

(1) by striking ''(c)'' and all that follows through ''(2)'' and inserting the following:

''(c) POSSESSION OF FIREARM DURING COMMISSION OF CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—

''(1) TERM OF IMPRISONMENT.—

''(A) IN GENERAL.—Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

''(i) be sentenced to a term of imprisonment of not less than 5 years; and

''(ii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

''(B) EXCEPTION FOR CERTAIN OFFENSES.—If the firearm possessed by a person convicted of a violation of this subsection—

''(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; and

''(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

''(C) EXCEPTION FOR CERTAIN OFFENDERS.—In the case of a second or subsequent conviction under this subsection, a person shall—

''(i) be sentenced to a term of imprisonment of not less than 25 years; and

''(ii) if the firearm at issue is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to a term of imprisonment for life.

''(D) PROBATION AND CONCURRENT SENTENCES.—Notwithstanding any other provision of law—

''(i) a court shall not place on probation any person convicted of a violation of this subsection; and

''(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

''(2) DEFINITION OF 'DRUG TRAFFICKING CRIME'.—''; and

(2) in paragraph (3)—

(A) by striking ''(3) For'' and inserting the following:

''(3) DEFINITION OF 'CRIME OF VIOLENCE'.—For''; and

(B) by indenting each of subparagraphs (A) and (B) 2 ems to the right.

(b) CONFORMING AMENDMENT.—Section 3559(c)(2)(F)(i) of title 18, United States Code, is amended by inserting ''firearms possession (as described in section 924(c));'' after ''firearms use;''.

UNANIMOUS-CONSENT REQUEST—S. 900

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar 204, S. 900.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

COMMENDING THE ASSISTANT LEADERS

Mr. LOTT. Mr. President, I would like to take just a moment to thank the two assistant leaders for their work. A lot of nights they are here and bring everything to a conclusion. I really enjoy working with the Senator from Oklahoma. He has been a great assistant majority leader, and he has done yeoman work today in making it possible for us to bring this session to a conclusion. Also, the Senator from Kentucky. I appreciate very much the way he pitches in late at night and covers for the Democratic leader and does it always with a smile. We appreciate that very much.

ORDERS FOR TUESDAY, JANUARY 27, 1998

Mr. LOTT. With that, Mr. President, when the Senate completes its business today, it will stand in adjournment sine die under the provisions of Senate Concurrent Resolution 68. The Senate will reconvene under provisions of Senate Joint Resolution 39 at the hour of 12 noon on Tuesday, January 27.

I ask unanimous consent that on Tuesday, January 27, immediately following the prayer, the routine requests through the morning hour be granted and that I immediately be recognized to suggest the absence of a quorum for the Senate to ascertain that a quorum is present and the Members are prepared to begin the 2d session of the 105th Congress.

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

Mr. LOTT. I further ask unanimous consent that following the ascertaining of a quorum, the Senate proceed to a period of morning business not to extend beyond of hour of 2 p.m., with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. LOTT. Mr. President, on Tuesday, January 27, when the Senate reconvenes the 105th Congress, second session, following a live quorum, the Senate will proceed to morning business then until 2 p.m.

Tuesday night at 9 p.m. is the President's State of the Union Address. Therefore, the Senate will reconvene Tuesday evening at approximately 8:30 p.m. in order to proceed as a body to the Hall of the House of Representatives to hear the address of the President. There will be no legislative business on the 27th except for those items that may be cleared for action by unanimous consent. Therefore, no votes will occur during the session of the Senate on Tuesday, January 27.

Senators should be aware that following that day, on the 28th and after, we will be expected to call up early in the session the ISTEA transportation bill, juvenile justice, the nomination of Margaret Morrow, and the nomination of Ann Aiken, both to be considered for judicial positions, and the nomination of Ann Aiken will be taken up prior to the end of the first week.

Again, I thank my colleagues for their cooperation during this session of Congress.

MILITARY VOTING RIGHTS ACT OF 1997

Mr. LOTT. Before we conclude then, I ask unanimous consent that the Senate now proceed to the consideration of S. 1566 introduced earlier today by Senator THURMOND.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1566) to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to protect the voting rights of military personnel, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

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

The bill (S. 1566) was read the third time and passed, as follows:

S. 1566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military Voting Rights Act of 1997''.

SEC. 2. GUARANTEE OF RESIDENCY.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by adding at the end the following:

''SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

''(1) be deemed to have lost a residence or domicile in that State;

''(2) be deemed to have acquired a residence or domicile in any other State; or

''(3) be deemed to have become resident in or a resident of any other State.

''(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.''.

SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(1) by inserting ''(a) ELECTIONS FOR FEDERAL OFFICES.—'' before ''Each State shall—''; and

(2) by adding at the end the following:

''(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

''(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

''(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.''.

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking out ''**FOR FEDERAL OFFICE**''.

MEASURE READ THE FIRST TIME—H.R. 2709

Mr. LOTT. I understand H.R. 2709 has arrived from the House, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read.

The assistant legislative clerk read as follows.

A bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention.

Mr. LOTT. I would now ask for its second reading, and I object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard.

CONDITIONAL ADJOURNMENT SINE DIE

Mr. LOTT. Now, Mr. President, before any other bills come to our attention, I ask unanimous consent that the Senate stand in adjournment sine die of the 1st session of the 105th Congress under the provisions of S. Con Res. 68 and S. J. Res. 39 until Tuesday, January 27, 1998, provided that the House adopts S. Con. Res. 68 and does not alter the text of the State-Justice-Commerce Appropriations Conference Report.

If either action occurs, I ask unanimous consent that the Senate reconvene on Friday, November 14, 1997, at 10 a.m.

There being no objection, at 7:56 p.m., the Senate adjourned sine die.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 13, 1997:

EXECUTIVE OFFICE OF THE PRESIDENT

RITA D. HAYES, OF SOUTH CAROLINA, TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GAIL W. LASTER, OF NEW YORK, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DEPARTMENT OF DEFENSE

WILLIAM J. LYNN, III, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF DEFENSE (COMPTROLLER).

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

RAYMOND C. FISHER, OF CALIFORNIA, TO BE ASSOCIATE ATTORNEY GENERAL.

THE JUDICIARY

LYNN S. ADELMAN, OF WISCONSIN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN.

NAVY

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 (LOWER HALF)

CAPT. HENRY G. ULRICH, III, 2552.