United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, TUESDAY, SEPTEMBER 24, 1996 No. 133

Senate

(Legislative day of Friday, September 20, 1996)

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

PRAYER

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

Gracious Father, Almighty Sovereign of our Nation, and strength of our lives, we thank You for the privilege of living in this land You have blessed so bountifully. With awe and wonder, we realize anew the stunning truth that You have called the United States to be Your providential demonstration of the freedom and equality, righteousness and justice, opportunity and hope, You desire for all nations. O God, help us to be faithful to our heritage.

We praise You for the way You have blessed us with great leaders in each period of our history. Through them You have continued to give Your vision for the unfolding of the American dream. And this is especially true today. Bless the Senators with a renewed sense of their calling to greatness through Your grace. You have appointed them; now anoint them afresh with Your spirit. As they confront the soul-sized, crucial issues of this week, give them a spirit of unity and cooperativeness. The workload is great, the pressure is heavy, and the challenge is formidable; but, nothing is impossible for You.

Fill this Chamber with Your presence. You are the judge of all that will be said and done here. Ultimately, we have no one to please or answer to but You. With renewed commitment to You, and reignited patriotism, we press on to living the page of American history to be written this week. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. LOTT. Thank you very much, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning there will be a period for morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each. Following morning business today, it would be my intention to begin consideration of a continuing resolution. We are fast approaching the end of this fiscal year. It certainly is my hope that we would be allowed to begin this important appropriations measure. At this time, we are unable to reach an agreement to begin that bill. I tried several different approaches last Friday in discussions with the Democratic leader. We were not able to come to any agreement at that time, but we will keep working today. Hopefully, we can reach some understanding as to how we would proceed.

In accordance with the agreement reached on Friday, the Senate will resume consideration of the maritime security legislation today at 4:30, with a series of rollcall votes beginning at 5 p.m. on or in relation to pending amendments as well as final passage on that. I presume there would be at least four votes at that time. So we will have the stacked votes at 5 o'clock.

We are also hoping that the one outstanding issue on S. 1505, the pipeline safety bill, could be resolved, and we could complete action on that measure also.

It is my understanding that the VA-HUD appropriations conference report may be available for consideration this afternoon. I know that the agreement has been worked out and that they are scheduled to vote sometime today. I do not know exactly what time we will get it. But as soon as we get it, we will try to get it into the mix at the earliest possible opportunity. It certainly is an important appropriations bill dealing with the Veterans' Administration and, of course, all of our housing policies in the country. We need to get that bill completed in order for the checks to go out on time at the end of this week or certainly the first of next week.

We will stand in recess today from 12:30 to 2:15 for the weekly policy conferences to meet. Once again, I ask for the cooperation of all Senators as we begin what I hope will be the final week of the Senate's business prior to adjournment. In order to accomplish that, it is going to take a lot of cooperation, a lot of give-and-take. I certainly will make every effort to work with all Senators. I hope Senators understand that this week is going to be very hard to schedule votes around other events, especially if we are really moving seriously toward completing our work, as we should, on Friday or Saturday.

In addition to that, we are working to see if we can clear problems with the NIH revitalization authorization bill. I understand there is the potential point of order that maybe can be worked out. There is a lot of support for this important legislation. I hope maybe we could do it like we did last week on the Magnuson fisheries bill, the FAA reauthorization, and the maritime bill. We can work through those problems and hopefully get about an hour to have some discussion to get a vote.

We are also working with Senator KASSEBAUM, who is very, very interested in the job partnership training legislation. There are problems there again, a point of order, which looks like it may not be resolvable, but we may call it up for some discussion this

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

Printed on recycled paper.

week and see what can be accomplished.

I want to remind Senators we expect a veto override vote to occur on Thursday on the partial-birth abortion ban. And there are requests from Senators to be able to speak on that matter today also. But we would schedule a vote for Thursday.

TRIBUTE TO JOHN DURICKA

Mr. LOTT. Mr. President, the Senate and all Americans lost a true professional yesterday. Veteran Associated Press photographer John Duricka died Monday at Arlington Hospital after long battle with cancer.

The measure of John's professionalism and dedication is that he was on the job almost right up to the time of his death—doing what he loved and doing it wonderfully well.

John's combination of mature demeanor and tough determination was a familiar face to all of us here in the Senate. He was a news photographer first—make no doubt about that.

But he also respected the institution which he illustrated to the world every day with his pictures. Unlike the White House or the Federal agencies where photographers often are cordoned off from those they cover, the Congress shares its space with the media.

John Duricka respected that unique relationship that we had with him and we returned that respect with our trust and appreciation for his talent.

I want to express the Senate's sympathy to his son Darren, his daughter Tammy, and his mother Emily Duricka.

All who treasure our freedoms of the press and free expression will miss his outstanding contributions to that end. We in the Senate will miss a respected friend. I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the provisions of the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Georgia [Mr. NUNN] is now recognized to speak for up to 10 minutes.

Mr. NUNN. I thank the Chair.

TRIBUTE TO GEARY T. BURTON

Mr. NUNN. Mr. President, on August 13, Geary Thomas Burton tragically and unexpectedly died while undergoing surgery to correct a knee injury he sustained during a recent church-related softball game. He was only 45 years old at the time of his death. Geary was known to all of us on the Armed Services Committee and to many here in the Senate because he was a very important member of the staff of the Armed Services Committee from 1989 to 1991.

Today, I want to take this opportunity to recall Geary's many professional accomplishments and describe for my colleagues the life of this remarkable individual who served the Senate Armed Services Committee with great distinction for more than 3½ years.

Geary Burton was born on June 30, 1951, in Pittsburgh, PA. We are privileged to have his mother, Lura Burton, sitting in the Senate Gallery today, along with Geary's sister Nancy and her daughers Claudia and Claudette. It was through Mrs. Burton's love, hard work, and devotion in raising Geary and his sister, Nancy, that he developed such strong character and learned the value and importance of a good education. In 1973, Geary earned a bachelor of arts degree at Thiel College in Greenville, PA, where he majored in political science. He continued his education and earned a law degree from Duquesne Law School in 1976.

With great energy and dedication, Geary used his education and skills as an attorney in the service of our country. In August 1973, he received a commission as a second lieutenant in the U.S. Marine Corps. He served as a criminal trial lawyer on active duty with the Judge Advocate General Corps from 1977 to 1981. Even after his release from active duty in March 1981, Geary continued to serve as an officer in the Marine Corps Reserve. In November 1982, he was promoted to the rank of major. We all know the Marines set very high standards—and Geary fully met these standards. Geary's accomplishments as one of ''The Few and the Proud'' are notable. I recall in many conversations with Geary he was extremely proud of his service with this elite military organization.

In March 1981, Geary accepted a position with the Office of General Counsel at the General Accounting Office, where he served as legal counsel to the evaluator staff charged with auditing the Department of Defense, a very major responsibility. Geary consistently demonstrated a high degree of proficiency in performing his duties and moved quickly up the civil service ranks. In less than 7 years, he earned three promotions and obtained a GS–15 ranking at the age of 36—which is a remarkable achievement.

Geary joined the staff of the Senate Armed Services Committee as a detailee from the General Accounting Office in April 1989 to work on the complex issues of defense acquisition reform. I remember requestiang from the GAO one of their best people. We did not know Geary at the time but we really needed help. They certainly lived up to that request because they sent us a very talented young man. He quickly earned the respect and admiration of his fellow staff members as well as Senators on both sides of the aisle with whom he was in regular contact. Geary's tenure with the Armed Services Committee lasted until December 1992. During that period, he served as counsel to the committee for defense procurement and small business issues. We tried to keep Geary but finally the GAO demanded he come home because they needed him very bad.

Geary successfully conducted research, drafted legislation, and developed congressional and public support for many key legislative initiatives. He performed a vital role in helping the Armed Services Committee make numerous changes to defense acquisition policy that were required in the face of the post-cold-war defense build-down. Geary worked hard to enhance the role of small and disadvantaged businesses, historically black colleges and universities, and other minority educational institutions in defense acquisition practices. Geary's key participation in the establishment of the Pilot Mentor-Protégé Program was a direct reflection of the innovation and creativity that he brought to the committee in drafting acquisition legislation. In addition, Geary provided outstanding staff work in the oversight of programs designed to foster greater government-industry cooperation and to increase the use of commercial products and processes in Government procurement which has saved and will continue to save on an increasing basis literally millions and billions of the tax dollars for the American people. This of course has been a top priority of Secretary of Defense Bill Perry.

While Geary's dedication and professional competence contributed to a highly successful career, Geary was totally devoted to his family and the community in which he lived. He was an active member of St. John the Evangelist Baptist Church in Columbia, MD. In his extended community of Howard County, MD, Geary served as a member of the board for the African-American Coalition and helped establish the Black Student Achievement Program. There is a saying that ''Those who possess the torch of wisdom should allow others to come and light their candles by that torch.'' Geary Burton followed this principle in both his professional and personal life to the great benefit of both the Senate Armed Services Committee and his local community. His service to our committee, to the Senate, and to the Nation was superb.

Geary will be missed most of all by his devoted family but he will also be missed by all of us who worked with him. He was simply a superb individual in every sense of the word.

In closing, Mr. President, I want to say to Geary's family—his wife, LaVarne; his two daughters, Ruth Giovanni and Beth Angela; his stepson Kevin Taylor; his mother Lura Burton; his sister, Nancy Bellony, and her

daughters Claudia and Claudette—that my thoughts and prayers, and those of all of the members and staff of the Armed Services Committee with whom Geary served, are with you in these difficult days. Geary was a respected colleague and trusted friend. We will always be grateful for his service to the Senate and to his Nation. We will always recall with great fondness and with wonderful, wonderful memories his warm personality and the energy and enthusiasm with which he approached his work and his life.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that Senator DODD be permitted to proceed in morning business for up to 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The distinguished President pro tempore of the Senate is recognized.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2104 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, if I may inquire, I believe I have been allocated 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. I thank the President.

Mr. President, I have served as a Member of this body for nearly 16 years.

In that time, few accomplishments have given me as much pride as the day in February 1993 when President Clinton signed into law the Family and Medical Leave Act.

Enactment of family leave legislation threw millions of struggling Americans a lifeline.

It made it easier for the American people to balance the responsibilities of work with the needs of their families.

And most important, it said to the American people: If you or a loved one becomes ill, you won't be forced to choose between your family and your job.

I point out that we were the last of the industrialized nations—in fact, last of many nations in this World—to actually adopt a family and medical leave policy.

It took 7 years from the introduction of the legislation until it finally became law. PATRICIA SCHROEDER—also representing the State which the Presiding Officer represents—was the author of the legislation in the House. I introduced the legislation in the Senate. Seven years we spent trying to get this bill to become the law of the land. It was an experience fraught with highs and lows.

Today, September 24, marks the fourth anniversary of one of those moments on the road to passage. It was in 1992, on September 24, that the Senate voted to override President Bush's veto of the Family and Medical Leave Act. Today, to mark this important anniversary, Americans are gathering all across the country in nearly 40 States.

Families, community members, and businessmen who found life better under the Family and Medical Leave Act will meet and share their experiences with the American public. And today the First Lady will travel to Connecticut to hear from those in my State who have seen the benefits of the Family and Medical Leave Act in their own families' lives.

Now, I would like to go back to 4 years ago today. On that date in 1992, 67 of our colleagues—from both sides of the aisle—joined me in voting to override the President's veto of the Family and Medical Leave Act. It was in fact only the second veto override of President Bush. Unfortunately, 6 days later, the House voted to sustain the President's veto, thereby killing the Family and Medical Leave Act once again. It had been the second veto we had been through in 7 years.

Our former colleague, Bob Dole, the then minority leader of the Senate, was one of those 31 Senators to vote against giving America's working families a helping hand. And just this month on the campaign trail Bob Dole attacked the Family and Medical Leave Act as what he called, and I quote him, ''the long arm of the Federal Government.''

I think the 12 million Americans who have taken advantage of the Family and Medical Leave Act over the past 2 years would probably disagree with that view. I think that the 67 million Americans who are now covered and eligible to take family and medical leave would have a different opinion than that of the former minority and majority leader.

For those, such as former Senator Dole, who continue to doubt the success of the Family and Medical Leave Act, I urge them to examine a recent bipartisan report which highlights the success of this legislation.

You may recall, Mr. President, that as part of the legislation we formed a bipartisan commission on family and medical leave to examine what the ramifications would be. Members of the commission were made up of both Democrat and Republican appointees, as well as opponents and proponents of the legislation. We spent over a year examining the Family and Medical Leave Act with significant surveys of employers and employees, with hearings conducted across the country, as well as here in Washington, to examine what the implications of the bill had been.

The overall findings of this commission were clear. In fact, the commission was unanimous that the Family and Medical Leave Act has been an overwhelming success. What is more, according to the commission's final report, the law represents, and I am quoting the report, ''a significant step in helping a larger cross-section of working Americans meet their medical and family care-giving needs while still maintaining their jobs and economic security.''

The bottom line is that family and medical leave legislation is allowing millions of working Americans significant opportunities to keep their health benefits, maintain job security, and take leave for longer and greater reasons.

Let us be clear on one point. Contrary to Senator Dole's protestations, family leave has also been good for American business. The conclusions of the bipartisan report, I think, are very important in this regard. And they certainly are a far cry from the concerns that Bob Dole and others voiced when this legislation was being considered in Congress.

Mr. President, let me draw your attention, if I may, to this first chart which reflects a survey done of business leaders by the commission. The vast majority of businesses, nearly 94 percent reported little or no additional costs associated with the Family and Medical Leave Act. I was stunned by this conclusion since the commission was analyzing the initial phases of the legislation. The initial phases of a legislation are always the most difficult, with businesses having to accommodate, get used to it, and develop bureaucratic procedures within their own businesses to accommodate the new legislation.

In my view, it is almost an astounding result that 94 percent of the businesses surveyed reported no difficulty in this initial time period. I assumed that such positive results would have come later as business became more used to the law and not during the initial stages, which tend to be the most awkward time.

So that was a rather compelling result from the list of the employers we surveyed. By the way, let me add that there were hundreds of employers and employees questioned in the commission's survey of reactions to the Family and Medical Leave Act.

When it comes to the employee performance, which was another concern

that was presented during the debate over family leave—as well as by our former colleague, Bob Dole—about what would be the effect on employee performances, what would happen to productivity, what would happen to growth when you had people moving in and moving out, as the critics claimed, nearly 96 percent of the employers reported no noticeable effect on growth. The concern was that this legislation would bring growth rates down. In fact, according to employers, 95.8 percent said there was no noticeable effect at all. Interestingly, 1 percent said they had a positive growth effect. If fact, we had only 3.1 percent who said it had a negative effect, again, in just the first 2 years of the bill being the law of the land.

More than 94 percent reported no effect on employee turnover. This was another accusation, that we are going to get huge turnover rates from family leave legislation, and yet on turnover rates, 94.7 percent of businesses reported no problems with turnover whatsoever.

Eighty-three percent of the employers reported no noticeable impact on employee productivity. We were told, once again, that productivity rates would fall—businesses would lose people and have to hire temporary employees to come in for a period of time. Supposedly this would cause productivity rates would fall. In fact, 83 percent said the law had no impact on productivity whatsoever. In fact, 12.6 percent actually said the law had a positive effect on productivity because, I presume, people no longer had to worry about losing their job because of a family crisis.

As we all know, Mr. President, family and medical leave is more than just statistics. There are real Americans behind these numbers. In compiling our bipartisan report on family and medical leave, we heard testimony from Americans who have been helped by this legislation. None of the commissioners—none of the commissioners, Mr. President—will ever forget the story of the Weaver family that we heard during our hearing in Chicago.

Melissa Weaver of Port Lavaca, TX, was 10 years old when she was diagnosed with a rare form of cancer, and after undergoing a year of surgery, chemotherapy and radiation treatments, her doctor regretfully informed her parents, Ken and Rosie Weaver, that she had only a few months to live. Because of the Family and Medical Leave Act, over the next 7 weeks, the Weavers were given the bittersweet opportunity to spend every moment together with Melissa during her final days.

In January 1994, Nedra Ward, an administrative assistant in Chicago, discovered she was pregnant. After her first trimester, she developed complications, putting her health and pregnancy at risk. Her employer allowed her to take time off on an intermittent basis. Today, she has both her job and a healthy, strong, baby boy.

Jonathan Zingman's second daughter was born in 1994. Two weeks after the cesarean section birth, the baby developed an infection and was hospitalized. Jonathan Zingman took 2 weeks off from work to aid his wife in recovering from surgery, to take care of his new daughter, and to give his older daughter an opportunity to adjust to her new sister.

What the Weavers, Nedra Ward, and Jonathan Zingman all have in common is that due to the Family and Medical Leave Act, they were not forced to make a choice between their jobs and their families.

As the author of this legislation, I would prefer that no one would ever have to use it because of a sickness, but as we all know, life is not so kind. The Family and Medical Leave Act has given these three American families, as it will millions of others, the opportunity to take medical leave when illness strikes and the necessary time to care for ailing family members and loved ones.

I hope that Mr. Dole and others, particularly Mr. Dole, would retract any suggestion that he might repeal the Family and Medical Leave Act if elected. I can think of few other pieces of legislation that have had such a positive and beneficial impact on the American public as this legislation, which is now the law of the land because President Clinton signed it in February 1993. But for 7 long years we had to fight day in and day out to enact family and medical leave legislation. We fought through two veto overrides, in which we succeeded in one but eventually lost the fight in the House of Representatives. To repeal this legislation now would be a major setback, in my view, for America's working families and I hope that on this one piece of legislation Bob Dole will admit he was wrong and agree today that family and medical leave will, and must, remain the law of the land.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DODD. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FORD. Mr. President, is it in order to take some time as in morning business?

The PRESIDING OFFICER. The Senator may proceed.

TOBACCO

Mr. FORD. Mr. President, Kentucky writer and farmer Wendell Berry wrote that:

> Though I would just as soon get along without it, a humbling awareness of the complexity of moral issues is said to be a good thing. If such an awareness is, in fact good—and if I, in fact, have it—I have tobacco to thank for it.

Like Berry, any awareness I have of moral complexities is also thanks to tobacco. Now I know there are some people who don't think there is anything at all complex about the tobacco issue. For them it is simply money versus morality.

For them there is no family business, there is no tradition, there is no farmer. And perhaps most disturbing—there is no appetite for reason.

That is something that we seem to be in short supply of here, from those who are determined to regulate an industry out of business to those who would rather play politics than protect our farmers.

These opportunists are thinking only of themselves and today, rather than all of us and tomorrow. And in the process, teenagers keep smoking, farmers fret about their futures, and the litigation continues.

I will admit that when it comes to Kentucky, I can be as hard as a bull's head. But, on the issue of teen smoking, I have been as reasonable as they come. I am one of the biggest defenders of tobacco, yet 1 year ago I, Wendell FORD, introduced legislation putting severe restrictions on the tobacco industry in an effort to reach a reasonable solution to the problem of teen smoking. Today, a full year later, none of my friends on the other side of the aisle have joined as a cosponsor or offered other legislative options.

And this is not my first attempt at reason on the issue of youth smoking or on the issue of the health effects of smoking by any means.

Mr. President, when I was Governor back in 1973, I worked with the legislature to create the Tobacco Research Board and authorized the University of Kentucky to begin an intensive research program directed toward ''proving or disproving questions about health hazards to tobacco users . . ..''

In 1984, I sat down at the table and came up with reasonable warning labels for tobacco products.

In 1992, I sat down at the table and hammered out an agreement on a national minimum age for the purchase of cigarettes. We backed those SAMSHA purchasing requirements with teeth, to ensure States did everything they could to enforce the law.

In 1994, I was right at the table when my colleague, Senator LAUTENBERG, decided to offer his pro kids bill, prohibiting smoking in any building that receives Federal funds and to which children have access. I did not stand in the way.

I sat down at the table time and again because like everyone else, I am against youth smoking. But I also sat down at the table because I realized that inaction was not a solution to the problem of youth smoking, just as it is not a solution today.

Don't get me wrong. I am as angry as I can be that the FDA is being given jurisdiction over tobacco. Bringing in the FDA will only create a whole new bureaucracy when tobacco is already regulated by at least seven Federal agencies including USDA, HHS, BATF, IRS, SAMSHA, EPA, and the FTC. I have it right here, Mr. President, a stack of all the current Federal tobacco laws and regulations—oh, about 18 inches tall—and this does not even include the tens of thousands of pages of State tobacco law and regulations. And now with the new FDA regulations, I can add another 200 pages from the Federal Register to this stack here on my desk.

But despite my frustrations and complete opposition to FDA regulation, I know that simply ignoring the problem is not going to fly, just as putting tobacco out of business is not going to fly.

The only answer is a legislative solution. Unfortunately, instead of working with me over the past year to come up with a legislative solution for our farmers, many in Congress have chosen to use the FDA regulations as a campaign rallying cry. But while they are stonewalling to win the tobacco farmers' vote today, where will they be if the courts rule against our farmers tomorrow? They must be prepared to answer for their inaction.

Anyone who says this can be solved with one vote at the polls in November is not shooting straight. That is because everyone familiar with this issue knows that the FDA would have been sued if they took this action, and they would have been sued if they took no action.

I do not care who you have in the White House next January or holding the gavel here in Congress, you have a problem that is going to be solved one of two ways—in the courts or in Congress. It's a fact that farmers have a bigger voice in the Halls of Congress then they do in a court room. We are forcing farmers to play Russian roulette with the court system and giving them an uncertain and ambiguous future.

It has been clear to me—and should be clear to others—that we must have a legislative solution for our farmers. We need a legislative solution because FDA jurisdiction has been rejected by the courts in the past, because the question of FDA regulation may be tied up in litigation into the next century, and because many aspects of the FDA regulation go beyond what is needed to target youth smoking.

With good reason, tobacco supporters are most troubled by this last reason—that the FDA regulations go beyond what is necessary to target teen smoking. We do not believe Dr. Kessler's desire to reduce smoking is his only motivation for regulating tobacco, and the regulations themselves further undermine his credibility on the issue. Let me quote, Mr. President, from the Federal Register notice accompanying the regulation:

> . . . FDA intends to classify cigarettes and smokeless tobacco at a future time,—

Classify cigarettes and smokeless tobacco at a future time?

> and will impose any additional requirements that apply as a result of their classification. . . .

It does not sound like they are just after youth smoking.

Like me, my farmers want to know exactly what that means for tobacco. According to Dr. Kessler, a pretty grim future. Back in February 1994 in a letter concerning FDA authority over tobacco, he wrote:

> A strict application of these provisions could mean, ultimately, removal from the market of tobacco products containing nicotine at levels that cause or satisfy addiction. Only those tobacco products from which the nicotine had been removed or, possibly, tobacco products approved by FDA for nicotine-replacement therapy would then remain on the market.

Documentation like this makes Dr. Kessler's interest in the narrow issue of teen smoking suspect to say the least. In fact, his public statements and testimony in 1994 are full of references to FDA regulations, but never in the limited context of youth smoking. I don't think I am alone in fearing that the sympathetic issue of youth smoking has become a convenient vehicle for darker ulterior motives.

A legislative solution is clearly needed to prevent Dr. Kessler from promoting his agenda under the guise of youth smoking. But that legislative solution will come only if all the players are sitting at the table ready to negotiate. It has never worked any other way with tobacco.

Congressman BAESLER and I have had legislation out there for a full year. What it represents is a good starting point for protecting tobacco farmers' interests instead of leaving the decision to some court that we have no control over. But, while we've got Members willing to protect NASCAR and rodeos with legislation, we've found little support from other tobacco State Members to try and help our farmers. Congressman BLILEY has gone so far as to say this is a question for the courts, not Congress.

Think about it. This year two of the largest tobacco companies have come out with even tougher proposals than mine in an effort to have a legislative solution that keeps FDA out of the business of regulating tobacco. Some will dismiss the tobacco company's action as public relations. I call it being reasonable.

They too, have found little support. This should be a team effort but instead has turned into partisan conflict that has wasted an entire year and weakened our overall strength in the fight to save the youth from smoking and to protect our farmers.

Mr. President, I introduced my legislation because I am fiercely opposed to Government interference in the legal decision of adults in this country. I introduced this legislation because I believe someone needs to truly look out for the tobacco farmers' interests. I introduced this legislation because I believe the problem of teen smoking calls for reason, not rhetoric.

Over and over again, I have sat down at the table and tried to come up with solutions for my farmers. For this past year I sat at the table alone because others would rather play politics. I believe the decision to stay away will have long-term implications for the future of tobacco farming and for the well-being of the industry as a whole.

Mr. President, Dr. Kessler was able to introduce his regulations because he said cigarettes were a device. Now he has made the thumb and two fingers a device because he says smokeless is included in that. So if you dip and get some tobacco, then your thumb and two fingers become a device—a device. So, cigarettes are a device, your thumb and index fingers are a device.

Something about this is wrong, Mr. President. After the November election is over, I am sure it will get out of the political arena as some try to bilk the tobacco companies for all the campaign funds they can get and they try to bilk the poor tobacco farmer out of a vote. Once November 5 is past, maybe we will be able to find someone willing to sit down at the table.

I was chastised in a letter I received yesterday for being in the position I am in. They say that—taking their numbers—3,000 young folks start smoking every day; that is over 1 million a year. With the litigation of these regulations being in the courts 3 to 5 years, say 5 years, they themselves have allowed over 6 million young people to start smoking, instead of sitting down trying to work out something reasonable that can stop it.

Now, you say you are trying to protect the farmer. I am, but I voted for every piece of legislation that has come through here to help prevent youth smoking, from labeling to smoke-free schools. I voted for SAMSHA, which is imposed upon the States. Where are those who want to do something for youth? All they want to do is run ads in the newspapers against my colleagues. They want to write big stories and have a lot of money in their till so they can get out there and beat their chest about how wonderful a job they are doing, while they are letting youths go down the tubes and the tobacco farmer go down the tubes.

Mr. President, I ask my colleagues, those affected by this issue, come reason together. Reason together so we can return to our farm families not only a sense of security and stability but a sense of dignity about the work they do.

I yield the floor.

COMMUNITY SERVICE MAKES A DIFFERENCE

Mr. NUNN. Mr. President, I am pleased to speak today regarding a recent collaboration between AmeriCorps

and Habitat for Humanity. Everyday on television and in newspapers we are reminded in some way of the problems of our Nation's distressed urban areas. I would like to draw the attention of my colleagues to one example of how community service is making a real difference in the area of affordable housing for hard-working families in cities across the country. On June 22, 1996, Habitat for Humanity sponsored the Home Stretch Build. Several hundred community volunteers and 75 Habitat AmeriCorps members from Americus and Savannah, GA; Miami, FL; Cleveland, OH and the District of Columbia built nine new homes in Southeast Washington, DC. That day Habitat for Humanity founder and president, Millard Fuller, said the following about the AmeriCorps Program:

There are a bunch of good folks out here today, doing something very, very worthwhile. I'm particularly pleased with the AmeriCorps people here, over 75 of them, and I want to salute you . . . for the outstanding work that you do. This army of peaceful people, who are making good news happen all over this Nation. Twenty-five thousand of them. And I want you to know that we at Habitat for Humanity feel privileged and honored to have the AmeriCorps people with us, and we want more of them as time goes on. We love to be partners with you in this work, and I salute all the AmeriCorps people.

Mr. President, this is another in the long list of examples of national service participants reaping the threefold benefit of national service—benefit to the community where the service is performed, benefit to the servers for serving their communities, and the benefit derived from the education of the servers in the future. I applaud the National Service Corporation for its ongoing efforts, and urge my colleagues to take note of the successes of these young people.

I yield the floor.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 23, the Federal debt stood at $5,192,406,060,962.74.

Five years ago, September 23, 1991, the Federal debt stood at $3,628,836,000,000.

Ten years ago, September 23, 1986, the Federal debt stood at $2,107,785,000,000.

Fifteen years ago, September 23, 1981, the Federal debt stood at $977,809,000,000.

Twenty-five years ago, September 23, 1971, the Federal debt stood at $415,377,000,000. This reflects an increase of more than $4 trillion, $4,777,029,060,962.74, during the 25 years from 1971 to 1996.

BRAIN INJURY ASSOCIATION PERFORMING GREAT WORK

Mr. HELMS. Mr. President, traumatic brain injury is a silent epidemic which afflicts one person in the United States every 15 seconds. Nearly 250,000 Americans suffer severe head injuries; and brain injury is the No. 1 killer of young Americans under the age of 40. More than 20 million Americans are affected one way or another by brain injury, with an estimated 60,000 deaths expected this year alone.

The Brain Injury Association, Inc., chaired by Martin B. Foil, Jr., of Concord, NC, was instrumental in the passage of the Traumatic Brain Injury Act which was signed into law on July 29, 1996. Mr. Foil, and his wife, ''Puddin,'' have worked tirelessly over the past 5 years to help pass this important legislation. The Foils' son, Philip, was injured in a car accident and suffered serious brain injury. The Foils turned that personal tragedy into a triumph for others. The Traumatic Brain Injury Act has focused a national spotlight on brain injury as a major health problem, and provides research grants for the prevention, treatment, and rehabilitation of brain injury.

Mr. President, brain injury in the United States costs an estimated $48.6 billion annually. Most of this expense is paid for by taxpayers through Medicare and Medicaid. It is hoped—and that is what the Traumatic Brain Injury Act is all about, providing hope—it is hoped that funds from the Traumatic Brain Injury Act will lead to innovative treatments which will help victims and their families better deal with this devastating injury.

Mr. President, I ask unanimous consent that a Charlotte (NC) Observer article regarding the Foil family dated August 4, 1996, be printed in the RECORD at the conclusion of my remarks.

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

[From the Charlotte Observer, Aug. 4, 1996]

CONCORD TEEN'S BRAIN INJURY LED PARENTS TO FIGHT FOR MORE PREVENTION AND RESEARCH

(By John Monk)

Between the grim aftermath of the crash of TWA Flight 800 and the attention riveted on Atlanta's Olympics, it passed almost unnoticed. But Martin Foil, wife ''Puddin'' and son Philip of Concord pulled off their own Olympian feat last week.

President Clinton invited the family to the White House as he signed a bill aimed at preventing and researching traumatic brain injuries. For the Foils, the signing in the Oval Office culminated two long struggles: their 12-year-old battle with a brutal accident that left their son disabled, and their fight to find treatment for similar injuries.

''We've been working on this 5 years,'' said Foil, 63, CEO of Tuscarora Yarns, Inc. in Mount Pleasant, NC, and chairman of the Washington-based Brain Injury Association.

The bill authorizes $15 million in research grants for the prevention, treatment and rehabilitation of brain injuries. It allots an additional $9 million for the Centers for Disease Control to monitor brain injuries.

The Foils' struggle began more than a decade ago.

In December 1984, Philip Foil was driving home from Concord High School. At 16, he was a bright, well-liked student who tutored colleagues in algebra and wanted to be a doctor. A car crossed a center line and slammed into Philip's car. In an instant Philip suffered severe head injuries. For 114 days, he lay in a coma. He woke to a life where, because his brain can't signal his body, he would need rehabilitation and care the rest of his life.

The Foils discovered that many people with traumatic brain injuries fall through the cracks of the nation's medical system. Brain injuries are not always formally recognized. Families who must care for the victims undergo enormous stress.

''Many people have been denied benefits from government programs, from insurance companies, as a result,'' said Dr. George Zitnay, president of the Brain Injury Association.

In the first years following Philip's accident, the Foils concerned themselves with his rehabilitation. He has made enormous progress, now able to walk with assistance and talk with the help of a vocalizing machine.

These days, there are tens of thousands of people like Philip. Modern medical treatment means many more people than ever survive brain injuries. No one has exact statistics on the number of brain-injured people. But the association estimates that up to 56,000 Americans die and more than 300,000 are hospitalized each year. Of the hospitalized, nearly 100,000 will sustain lifelong disabling conditions from sports, gunshot, and traffic accidents.

Most people who survive brain injuries are likely to live out their normal life span in a handicapped condition, and the cost is prohibitive.

''The average cost for a debilitating brain injury is $6 million or more,'' said Foil.

For years, Foil said, his grief over his son's injury kept him from getting involved in efforts to help publicize brain injuries. Gradually, he reached outward and contacted the association.

In 1992, when Foil became chairman, he gave top priority to passing legislation to research and prevent brain injuries.

Thousands of groups and lobbyists try each year to get legislators to introduce bills, but only a small percentage wind up as law.

Luck intervened.

Representative Jim Greenwood, R-Pa., was elected to the U.S. House of Representatives in 1992. As a state senator, Greenwood had won reforms for brain-injured victims.

Once in Washington, Greenwood was assigned to the House Commerce Committee, where any brain-injury legislation would originate. He became an expert in health care and won GOP leadership backing for a bill involving about $8 million a year for three years, a tiny sliver of the $1 trillion-a-year Federal budget.

Meanwhile, Foil's group won allies in the Senate, including Sens. Edward Kennedy, D-Mass., and Nancy Kassebaum, R-Kan. In July, Congress passed the bill that Clinton signed last week.

The Foils' battle is not over.

Their son, Philip, lives at home and will always need care. His parents are thankful he's a vital part of the family.

Congress may take a second action. Clinton signed an authorization bill—a law that allows money to be spent for a specific purpose. Now, Congress must pass an appropriations bill, which will actually permit the money to be spent.

''We'll get the money,'' said Foil. ''Congress would be ashamed not to give it to us.''

TRIBUTE TO SENATOR NANCY KASSEBAUM

Mr. HEFLIN. Mr. President, it took many of us by surprise when the junior

Senator from Kansas, NANCY LANDON KASSEBAUM, announced late last year that she would not run for reelection this time. She and I arrived in the Senate together after being elected in 1978, and it has been honor to serve here with her. Now, we will be leaving together when our terms expire at the end of this Congress.

Senator KASSEBAUM is someone who is thoughtful and deliberative, and her colleagues truly listen to her. She also has a willful determination which not only commands but earns the respect of others. She comes from a well-known political legacy as the daughter of the 1936 Republican nominee for President Alf Landon, who lived to be 100 years of age. She has consistently demonstrated shrewdness, intelligence, and prudence in her approach to the issues since she has been in office.

Senator KASSEBAUM is perhaps best known for her leadership as ranking member and chair of the Labor and Human Resources Committee, working there for bipartisan agreements on the many contentious issues which confront that committee. She is also known for her role in foreign affairs, having worked for many years on the Subcommittee on African Affairs of the Foreign Relations Committee. She was a major force behind the establishment of sanctions against South Africa and was key in deciding the conditions under which they should be eased before apartheid finally ended. Her background in education and the humanities has made her a strong leader on these issues as well.

The people of Kansas and the Nation have benefited greatly from the service of NANCY KASSEBAUM in the U.S. Senate. She has led by example, and this body will be a decidedly lesser place after she leaves. I commend her and wish her well as she moves on to a new phase of her life.

TRIBUTE TO UYLESS WARDELL WHITE

Mr. HEFLIN. Mr. President, I would like to bring to the attention of my colleagues a tribute written by Christopher Lee McCall to his uncle, the late Uyless Wardell White, of my hometown, Tuscumbia, AL. The Whites are known as a pioneer family in northwest Alabama. They are well-known in the Muscle Shoals area for Christian fellowship, civil responsibility, excellence in education, and total family devotion.

This fitting tribute written by Christopher McCall to his uncle invokes the memory of the love of Ruth for Naomi found in the Bible in the First Chapter of the Book of Ruth, verses 16 and 17:

> . . . entreat me not to leave thee, or to return from following after thee: whither thou goest, I will go; and where thou lodgest, I will lodge. Thy people shall be my people, and thy God my God: Where thou diest, will I die, and there will I be buried: The Lord do so to me, and more also, if I ought but death part thee and me.

Mr. President, U.W. ''Cush'' White was a model for his nephew, Christopher, to emulate. I ask unanimous consent that this tribute to U.W. White be entered into the CONGRESSIONAL RECORD immediately following my remarks.

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

(By Christopher Lee McCall—In loving memory of my uncle, Uyless Wardell White)

SOMEDAY

Someday we'll see you again,
Although we know not when:
We all loved you so very much.
But now we're out of touch.

Your face will be with us always;
We'll think of you everyday,
Never to forget what you gave us;
You brought us all such happiness.

Uncle Cush, we'll miss you,
With all our hearts and souls,
But to know you're somewhere safe
Away from this terrible place
Will help us to overcome
The sorrow we feel inside.

Though it will never cease,
This hollow feeling that we feel,
We know that someday soon,
We'll see you again!

TRIBUTE TO SENATOR DAVID PRYOR

Mr. HEFLIN. Mr. President, when I learned that Senator DAVID PRYOR was not planning on seeking reelection this year, I realized that few Members of this body have meant so much to the Nation while at the same time serving the people of their State.

Back in 1951, at the age of 16, young DAVID PRYOR served as a page here in the Senate. Looking back, he summed it up this way: ''It was the first time I'd seen Washington, the first time I'd seen the Capitol, the first time I'd seen the Senate, and the first time I'd been in a taxicab.''

Times have changed since 1951. Most of the faces that DAVID PRYOR saw during that initial visit are long gone. Some of the problems facing the Nation have been solved. New ones have arisen. But, since his election by the people of Arkansas in 1978, the same year I was first elected, Senator DAVID PRYOR has worked for this Nation's betterment. He is perhaps best known for his excellent work on behalf of the Nation's elderly citizens through the Senate Aging Committee, which he chaired for several years.

The State of Arkansas has benefitted immeasurably from his service. Alongside men like Senators J. William Fulbright and DALE BUMPERS, Senator PRYOR has been an outstanding standard bearer of the legacy and tradition of those who have served Arkansas in the Senate.

''Smart as heck'' was how he described Senator Fulbright in 1951. It will be no surprise to read similar comments written by those pages who have encountered Senator PRYOR during their service. He is also a true gentleman, and always treats others with respect and courtesy, traits that are all-too-often missing in today's harsh political climate.

He is a man with deep ties to his State. He started his own newspaper in his home town after graduating from the University of Arkansas. He spent years as a country lawyer, serving everyone who walked in the door. In fact, as a lawyer, he participated in the famous coon case—an ownership dispute over a dog in which the judge allowed the dog to choose its own owner.

The Senate itself has benefitted from the efforts of DAVID PRYOR. He has worked to maintain its dignity and unique style of debate and policy-making. He has served in the Senate for nearly 18 years. We came here together, and will leave together.

Senator PRYOR has made many contributions to both his constituents and his colleagues. We will wish him well as he leaves to enter a new phase of his life.

TRIBUTE TO SENATOR JIM EXON

Mr. HEFLIN. Mr. President, along with many of our colleagues, the senior Senator from Nebraska has announced that he will retire at the end of this Congress. When JIM EXON leaves, the Senate will have lost one of its most loyal and dedicated Members. The business of governing often comes down to being a team player. While he has not been reluctant to stand his ground when his conscience required him to do so, JIM EXON has also stuck by his team on the toughest votes that help to define our two parties.

Senator EXON has gained our deep respect because of the wisdom of the measures he has advocated. He wrote the law that prevents the foreign takeover of American corporations which threatens our national security. Also, he increased the penalty for drug sales near truck stops to make America's highways even safer. These are just two of the numerous legislative initiatives JIM EXON accomplished during his successful tenure in the Senate.

He has been quick to recognize and adapt to the dramatic global changes which have occurred over the last 6 years. His foresight in advocating the establishment of barter arrangements with the former Soviet Republics will become even more apparent as those nations become more fully integrated into the world economy.

Senator EXON has not been afraid to stand by his beliefs. While we were not always on the same sides of a given issue, there has never been a doubt in my mind that he based his decisions and votes on what he believed to be in his State's and the country's best interest. He has been an outstanding leader on defense and national security issues.

Senator JIM EXON has demonstrated in his 18 years in the Senate that he is valuable both for his inclination to be a team player and his willingness to stick to his position in the face of stiff

opposition. We were elected the same year, and will be leaving together when our terms expire early in 1997, and I wish him well. The people of Nebraska have had a true friend in Senator JIM EXON.

TRIBUTE TO SENATOR PAUL SIMON

Mr. HEFLIN. Mr. President, 2 years ago, we in the Senate—and the Nation—were saddened to hear that our colleague PAUL SIMON would not seek reelection this year. As a national figure who truly embodies integrity, respectability, and character, Senator SIMON will certainly be missed here.

PAUL SIMON was one of the first politicians to disclose his personal finances so that they would be open to scrutiny by the public. He has firmly supported a balanced budget amendment in order to prevent the Government from continuing to spend itself into greater debt. He has been the Democratic standard bearer on the balanced budget amendment legislation, and I am still hopeful that we see it become a reality before we both leave in early 1997. In the same vein, he has supported a line-item veto for the President to allow the Chief Executive to trim fat from the budget. Senator SIMON recognizes that the Founding Fathers did not intend for the Government to operate in the red.

I think that Senator SIMON's strong commitment to integrity in Government can be traced to his roots in the newspaper business. At the age of 19, he bought his own newspaper, the Troy Tribune. As its publisher, he crusaded against local gangsters who had subverted local law and order. His success in running his own newspaper no doubt influenced his belief in the ability of the Government to operate in a thrifty and effective manner while maintaining the same honesty that he had shown in running his paper.

The business flourished, expanding to 14 papers. Then he decided to sell his interest so that he could devote himself full time to serving his country through Government service. We will always remember the candor, wit, and knowledge he brought to the 1988 Presidential race.

It has been my personal privilege and pleasure to have served on the Senate Judiciary Committee with him. He is not a lawyer, but his keen insight into the legal issues that affect real people is enlightening and instructive. He is an outstanding member of that committee.

This body will be a decidedly lesser place without PAUL SIMON. We congratulate him and will wish him well after he leaves.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak up to 10 minutes in morning business.

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

IMMIGRATION EDUCATION

Mr. SPECTER. Mr. President, in a few moments the House and Senate conference committee on the immigration bill will meet, and I believe we will approve far-reaching reform on immigration by striking out the so-called Gallegly amendment, which allows the States to deny public education to children who are not legally present in the United States.

The Gallegly amendment, Mr. President, is fundamentally unfair because it is directed at children. It is my view that the children ought to have an opportunity for education for many reasons. One reason is that if they are to be self-supporting adults, if they are to have an acceptable quality of life and become good citizens or residents of the United States of America, they need an education. Second, if they are not in school, they are going to be on the street, and there will be problems of delinquency, there will be problems of juvenile crime.

The answer is not to exclude illegal alien children from having an education, but instead to tighten up the restrictions on illegal immigration and to protect our borders. The immigration bill which is now pending in the House-Senate conference will be a significant step forward in reform, to reform the immigration laws, to protect U.S. borders, to provide for expeditious treatment of immigrants who are illegally in the United States, to deport those immigrants in accordance with our laws.

It is said that the education of illegal alien children is a magnet to draw illegal immigrants into the United States. The answer is not to exclude those children from education, but the answer is to protect American borders so that the illegal immigrants do not gain access to the United States, do not enter the United States, and that children are not here, posing a significant problem in terms of their conduct on delinquency and crime and in terms of their conduct when they grow to adults, assuming they stay in the United States.

There have been those who say that it ought to be the financial responsibility of the Federal Government to pay the cost of education, and I am in agreement with that principle, Mr. President. It has been a failure of the Federal Government to protect U.S. borders. I think it is fair to respond that it ought to be the obligation of the Federal Government to pay to educate the illegal alien children that it has allowed to enter. However, the answer is not to deny those children education while they are in the United States.

Mr. President, I believe it is very important to make sharp distinctions as to how we treat children of illegal immigrants from how we deal with the problem of illegal immigration generally. The way to deal with the problem of illegal immigration is to protect our borders. It is not to deny education to children once they are in the United States. Neither is it sound, sensible, or fair to deny citizenship to children who are born in the United States to immigrants who have illegal status. The hallmark of America, the hallmark of the Statue of Liberty, and the hallmark of the melting pot is to respect the status of American citizenship of any child born in the United States.

That is a matter, Mr. President, that I feel particularly strong about since both of my parents were immigrants. They both came to the United States legally; that is, to the best of my knowledge, information, and belief they came legally. My father came from Ukraine in 1911—literally walked across Europe, sailed at the bottom of the boat, in steerage, to come to America to find an opportunity for himself and his children. Harry Specter, my father, didn't know that he had a round-trip ticket when he came here—not back to Ukraine but to France, and not back to Paris and the Follies Bergere, but to the Argonne Forest, where he served in the American expedition forces to make the world safe for democracy, with shrapnel in his legs until the day he died.

My mother came with her family as a child of 5 from a small town on the Russian-Polish border, I believe with legal immigrant status, although I would be hard pressed to prove that my parents were legal immigrants if someone were to challenge the status of ARLEN SPECTER as a citizen of the United States.

But when we deal with the problem of illegal immigration, or legal immigration, we have to have a very, very sharp focus on what is appropriate public policy. The bill in its final form, in my judgment, is somewhat too harsh in taking away benefits from legal immigrants and denying some benefits to other immigrants. But I think reform is necessary, and the compromise that has been worked out is a reasonably good compromise, and if we find problems, we can correct them at a later date.

But I want to repeat that it is obnoxious, unfair, and un-American to deny U.S. citizenship to anyone born in this county, no matter what their status. I am glad that the bill before us does not incorporate this proposal.

The conference report has been held up for a very protracted period of time over the Gallegly amendment because there is so much sentiment in the Congress that we ought not to deny education to children regardless of their immigration status. There has been the threat of a veto from the White House. But I think it is highly unlikely that the conference report could pass the Senate with the Gallegly amendment in it.

There has been an effort by a variety of amendments to grandfather children so that once they are in school, they can complete the 6th grade and elementary school or complete high school. There was an amendment which

I had suggested, which I was not really fond of and didn't really think was the ultimate solution but a stop-gap measure, to have a mandatory, expedited vote in 2½ years, 30 months after implementation of the Gallegly provision, to see the impact of the Gallegly provision on delinquency, on education, and on family life, and then a second vote at the end of 5 years, 60 months. I felt that the Gallegly amendment would, if presented in isolation, be rejected by the Congress, and that we would not deny education to children in this country regardless of the status of their parents. But I believe, after a lot of deliberation, the issue has been resolved.

I am looking forward to the conference which will start in just a few minutes in which we will delete the Gallegly amendment so that the States will not have the option to deny education to children regardless of their parents' status. We can bring this immigration reform bill to the floor, and we can pass it and, I think, have it signed into law.

I thank the Chair. In the absence of any other Senator, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MR. PEROT AND THE PRESIDENTIAL DEBATES

Mr. CONRAD. Mr. President, I would like to comment briefly on the decision to exclude Mr. Perot from the upcoming Presidential debates. I want to make it clear from the outset that I support my President and I support my party, but I do believe that Mr. Perot ought to be included in these debates. After all, Mr. Perot and his party have now qualified to be on the ballot in all 50 States in this Nation. He has become eligible for Federal funding. In fact, he will receive nearly $30 million in Federal funding, based on his previous performance. Last election he received nearly 20 percent of the vote nationwide, and some exit polls indicate he would have done even better if people had not already made the judgment that he could not win. In polling that has been done this year, 76 percent of the American people have indicated they would like to see him included.

I think, for all of those reasons, Mr. Perot deserves to be included. But I think there are other reasons as well. I think Mr. Perot has made a significant contribution to the national debate and discussion over deficit reduction. Frankly, if you go back to the 1992 debates and the 1992 campaign, Mr. Perot can rightfully claim that he served as a prod to both parties to discuss deficit reduction. I believe that remains one of the foremost challenges this country faces. Mr. Perot would help the debate, in terms of a focus on deficit reduction.

Mr. Perot has also made a contribution in two other areas that have received very little attention during this Presidential campaign. First, with respect to the question of trade, he has a different view than either the Republican challenger, Mr. Dole, or the incumbent President, President Clinton. This country deserves a debate and discussion on trade policy as part of this Presidential campaign.

Finally, I think Mr. Perot has also made a contribution with respect to the question of campaign finance reform. We have heard virtually nothing in this campaign about campaign finance reform.

I hope the Presidential commission will review their decision and decide to include Mr. Perot. Again, I emphasize, I am not a Perot supporter. I do not intend to vote for him for President of the United States. I intend to support the President. I intend to support my party. I think the President has an outstanding record in terms of actually delivering on deficit reduction.

I recall very well, when the President came in, in 1992, he inherited a budget deficit of $290 billion. That has now been reduced, by the best estimate for this year, to $116 billion, about a 60-percent reduction. In fact, the deficit has come down every year for 4 years in a row.

Partly because of the Clinton economic plan that was passed in 1993—that was a deficit reduction plan—I believe we have seen the resurgence of this economy. We have become the most competitive nation in the world, replacing Japan. Not only have we seen a dramatic reduction in the deficit, but we have seen a significant strengthening of economic growth. We have had the strongest private sector economic growth on this President's watch than on that of the last three Presidents. We have also seen the lowest misery index—the measure of inflation and unemployment—in 28 years. Business investment is increasing at a rate that is the highest in 30 years. We have seen the creation of more than 10 million new jobs during this President's term.

I think this President has an outstanding record to take before the American people. But I think most of us also know that the job is not finished. The job is not yet completed. More needs to be done. I do believe Mr. Perot would play a positive role in putting a focus on the additional deficit reduction that needs to be made in this country.

As I have stated, I also believe he would make a positive contribution to a debate on trade policy and with respect to the question of campaign finance reform. I am sure the occupant of the chair may share these views. Or perhaps not.

I do think the commission's decision is fatally flawed. When they make a determination that somebody not be included because they have no realistic chance of winning, what are they going to do when one of the two major candidates has no realistic prospect of winning? We have had several Presidential campaigns where that was the case. Let's go back to the 1984 Presidential race with Ronald Reagan as the incumbent President. There was no realistic chance anybody was going to beat him. Should we have canceled the Presidential debates altogether?

This year we see the challenger 17 points behind. Nobody has ever made up that kind of gap. Should the Presidential commission determine Mr. Dole has no realistic chance of winning the election, and therefore cancel the debates? The logic used by the commission—that because somebody does not have a realistic prospect of winning the election they should be excluded from the debates—is a slippery slope.

We ought to include those who have met the tests that Mr. Perot has met. I understand Mr. Perot is a controversial figure. His 1992 Presidential campaign—with his entrance into the race, his withdrawal, and his reentrance—raised many questions. But we are still left with some basic facts.

First, he has qualified to be on the ballot in all 50 States. He has done that. His party has qualified to be on the ballot in every State in the Nation.

Second, he has become eligible for Federal matching funds. The only people who have managed to do that this year are Bill Clinton, Bob Dole, and Ross Perot. Nobody else has qualified to get Federal matching funds.

Third, he received nearly 20 percent of the national vote in the last election. I think that merits inclusion in these debates. Finally, perhaps most important, the vast majority of the American people, according to the polls, want him included. They want to hear a debate that includes Mr. Perot. It does not mean they want to vote for him necessarily, but they want to see him included in the debate.

As I have said before, I think he has demonstrated he has made a positive contribution on the issues of deficit reduction, trade, and campaign finance reform.

So, I hope the Presidential commission will review their decision and decide to include Mr. Perot without having a court have to review this decision for them.

I thank the Chair, yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The distinguished Senator's thoughtful comments are well received, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order for not to exceed 10 minutes.

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

The distinguished Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

SENATOR JIM EXON

Mr. BYRD. Mr. President, I pay tribute today to Senator JAMES EXON, who is completing his third term in the Senate and has unfortunately, decided to retire. His retirement caps a long and distinguished career of public service unique to his home State of Nebraska. JIM EXON and I have served together on the Armed Services Committee, and I have admired his strong support of our national defense. At the same time, as a conservative, and as ranking member on the Senate Budget Committee, Senator EXON has had a practical, direct, moderate temperament which has put him in tune with national sentiment on the need to control spending. He has been a leader of efforts to balance the budget, and that includes a need to reduce defense spending where possible, given the end of the cold war, and particularly in tempering the tendency to throw too much money on expensive new hardware systems.

JIM EXON is against waste and he has put his legislative shoulders behind that effort. He would agree with William Shakespeare, who wrote in King Henry V:

I can get no remedy
against this consumption of
the purse: borrowing only
lingers and lingers it out,
but the disease is incurable.

JIM EXON will be missed here. I shall miss his candid style, his no-nonsense temperament, and his refreshing directness, all of which are mixed with a down-home sense of humor. As a Senator, JIM EXON has always retained a modest sense of himself, never succumbing to the inflation of ego, which is a constant temptation in a body so much in the national limelight.

Senator EXON's success as a three-term Senator follows a string of other successes. After graduating from the University of Omaha in 1942, he volunteered for the U.S. Army Signal Corps and served in the Pacific theater in New Guinea, in the Philippines, and, finally, in Japan, and was honorably discharged as a master sergeant in December of 1945. He returned from the war to start a business career and developed a very successful office equipment company.

At the same time, he followed in his family's political footsteps. His grandfather served as a county judge in South Dakota, and JIM's early grassroots experience came in campaigning for his grandfather there. JIM started in politics by becoming a prominent leader of the Nebraska Democratic Party, serving as State vice chairman and National Committeeman.

JIM came to the Senate in 1978 after having served as the Governor of Nebraska for two terms from 1970–1978, longer than any other person in that State's history. The experience served him well. He was rewarded by the people of Nebraska when he achieved the unique accomplishment of having been elected directly to the United States Senate.

JIM EXON comes from the heartland of America and is an admirable reflection of the values, the solid citizenship, and the loyalty that characterize our heartland. He reflects the basic American values that honor family, fiscal responsibility, and national security.

Last year in the context of landmark telecommunications reform legislation, he was the author of a provision intending to protect children from computer pornography by making it illegal to send indecent material to a child or display it on computer screens where children can access it.

He has been, as well, a leader in protecting American businesses from takeovers by foreign firms in the area of national security. Known as the Exon-Florio law, passed in 1988, this act gave the President authority to investigate and stop foreign takeovers of American companies in the case where the takeover would threaten U.S. national security.

JIM EXON is rock solid. This year he and his wife, Patricia, will have celebrated their 53rd wedding anniversary, which goes to show that you can still stay married to your first wife a long, long time. He returns to Nebraska to join his three children, Steve, Pam, and Candy, along with his eight grandchildren, a very wealthy man he is indeed—eight grandchildren.

In citing his reasons for retirement, JIM EXON laments recent trends in American politics, such as the ''vicious polarization of the electorate,'' the erosion of the art of honest compromise as the essence of the Democratic process, and the negative attack ads dominating current political campaigns. As he departs, I hope that he will be a continuing force against these trends and that he, at least, will help inculcate in the new men and women who are entering politics in Nebraska the same values of fairness; good humor; practical, independent sense—common sense—and honest achievement that have so clearly emphasized and characterized his own career.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO SENATOR DAVID PRYOR

Mr. BUMPERS. Mr. President, I have come to the floor this morning to pay tribute to my distinguished retiring colleague, DAVID PRYOR.

When I think about Congress suffering—and I use the term ''suffering'' advisedly—the largest number of retirees in 100 years, I have a tendency to wax eloquent about my own personal beliefs as to why that is happening. There are 13 Senators who have chosen to leave voluntarily this year. Among them are some of the very best.

I have confessed on occasion when I didn't think it would hurt me politically to the fact that I am not a terribly effective legislator because I have a very difficult time compromising. I have strong beliefs, and sometimes compromise is just out of the question for me. And, yet, we all know that 535 Members of the Congress cannot each have his or her own way on every issue.

But the people who are retiring are essentially people who are very good legislators because they understand the art of politics; the necessity for compromise. And I call them ''bridge builders''—because they don't let stand between them differences in philosophies and personalities. As the U.S. Senate has become more ideological and more entrenched in hard core ideas, where name calling somehow or other has become the substitute for ideas, we need bridge builders.

DAVID PRYOR was born in Camden, Ouachita County, AR, in 1934 to very devoted parents. All of DAVID's life manifest in his personality and character is the unexcelled upbringing he enjoyed.

He graduated from the University of Arkansas Law School in 1964 with an LLB degree, went home to his native Camden and established a newspaper called the Ouachita Citizen that he operated for 4 years. During that period of time he was also elected to the Arkansas State legislature, to the House of Representatives, for three terms—1960, 1962, and 1964.

I remember—I guess it was 1966—when DAVID was elected to the U.S. House of Representatives. It was in 1968 that I met him for the first time, and that was just one of those typical political handshakes. The Democratic Party was having a forum in Little Rock. I had the itch to run for Governor in 1968. Luckily for me I chose not to do it that year. But DAVID PRYOR spoke at this meeting in Little Rock in 1968. And I was absolutely awe-stricken—he was good looking, articulate, and had some very good ideas. And I thought how wonderful it must be to serve in the House of Representatives and be able to come here and say these things for this giant crowd here this evening. And it only piqued my interest in running for office that much more.

So besides my father, who actually encouraged me to go into politics when I was a child, DAVID was my next inspiration because of that evening in Little Rock in 1968.

After losing a race for the Senate in 1972, he came back in 1974 and ran for Governor and won handily, and served

our State for 4 years. That was two terms, then, 2-year terms. He served our State admirably.

He became then, and has remained ever since, the most popular politician in Arkansas by far. I said the other evening, and I have said it many times, it pains me to say that. The thing that makes it bearable is I know it is true. Everybody in our State, virtually everybody, loves DAVID PRYOR, as does virtually every Member of the U.S. Senate.

In all of the years that DAVID has been in politics, and certainly all the years he has been in Congress, I have never heard anybody accuse him of having Potomac fever, and the reason he is easily the most popular politician in Arkansas is because he has never lost that common touch of letting people know that he is concerned about them. He never looks past you to see who is next in line. You get his undivided attention, no matter how crazy the idea might be. DAVID PRYOR has always been a listener.

I read a book one time called, ''Lee, The Last Years.'' It is the story of Robert E. Lee after the war, written by a man named Charles Bracelen Flood. And the most poignant part of the book was a description of Lee after he surrendered to Grant at Appomattox. He then got on his horse Traveler and, with a small entourage of Confederate officers and men, started on roughly a 5-day trek from Appomattox Courthouse to Richmond, where a home had been prepared for him.

As they went through various southern villages and communities, huge crowds lined the streets awaiting for hours the arrival of Lee and his entourage—rebel yells, unbelievable cheers, of people for this losing General.

About the third day of this trek toward Richmond, Lee stopped at a point where a battle had been fought and there were still rotting corpses on the battlefield. He got off his horse and he waved his arm toward the battlefield and he said, ''This could have been avoided.'' And the rest of what he said I paraphrase, but it was essentially this: At the time when this Nation needed men of courage and vision and restraint, we had politicians who saw that it was to their advantage to foment the flames of war. And this is the result.

James Fallows has written a book called ''Breaking the News: How the Media Undermines American Democracy.'' It is a very interesting and almost unassailable hypothesis, in this book. But I can tell you, democracy always hangs by a thread. And here we have a man like DAVID PRYOR, who has all the qualities that Robert E. Lee described, and more: tenacious, determined on what he believes, intellect, the character to stick with his ideas in a totally honest way, and vision about where the country ought to be heading. These are remarkable traits to be wrapped up in one man, and rare and unusual in the U.S. Congress. So, at a time when democracy perhaps hangs by a more slender thread than ever, losing a man like DAVID PRYOR, who possesses those qualities, is just short of disastrous for the country and certainly, to me, as a friend and colleague.

In the years I have served with DAVID, almost 18 years, now, I have never seen him duck a tough vote, though there have been plenty of opportunities. He has always been able and willing to take the heat in order to cast those votes.

When DAVID came to the Senate he had been Governor 4 years, but we really did not know each other. We knew each other politically, and we would see each other at political events, and we were friends. But it was only after he came to the Senate that we developed a friendship in the truest meaning of the word. So, I have been close to him in a lot of his travail. I can tell you, I do not know of very many people who have suffered in their personal life as much as DAVID—really, terribly traumatic things. Despite all of that, including the current trauma, I have never seen him down. I have never seen him look for sympathy or indicate that he was looking for sympathy.

I remember when my wife, Betty—and I do not mind saying this now, because it was about 15 years ago—was diagnosed with cancer. It was a dicey situation. She was going to be operated on at Georgetown at 8:30 in the morning. I got there at 8, and DAVID was already there. I guess that morning was the sealing of this, what will now be a lifelong friendship.

During his entire adult life since he graduated law school, he and Barbara have undergone these traumatic experiences together. She has been by his side. I have watched her. I have watched her strength. I have watched her values sustain her and DAVID both. And in all fairness, she has never been shy about expressing her thoughts and ideas with her beloved husband, DAVID.

Then, of course, it has been a love affair. I know that DAVID never loved anybody else from the day he set eyes on Barbara Lunsford and they have both been tremendous parents to three very fine sons—they are so proud of them, and justifiably.

While I am senior by 4 years to DAVID PRYOR in the U.S. Senate, he has been my mentor, my consultant, and my best friend. I will miss him and I wish him Godspeed and good luck.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FAMILY AND MEDICAL LEAVE ACT

Mr. BROWN. Mr. President, I had the pleasure earlier today of listening to the distinguished Senator from Connecticut talk about the Family Leave Act. He talked in very laudatory terms of the many positive changes that it has brought about.

Mr. President, I also want to voice a positive response to the fact that employers do provide family leave, a time to be with their family and loved ones at a time that is important, during medical emergencies. But, Mr. President, I think it would be a shame to allow the subject to pass without observing what the real issue was.

The real issue in the Family and Medical Leave Act was not that people should have time with their families. Of course they should. Many employers provided that before the act was in place. Certainly I believe, within the possibilities of jobs—not all jobs have flexibility—but within the possibilities of the jobs involved, that certainly should be the case in terms of company policy.

But, Mr. President, with all due respect to the distinguished Senator from Connecticut, he just doesn't get it. One of the tragedies, I think, of our system as it developed is that our legislative bodies are populated by people who have not had the experience of real work in the private sector. They have not had an opportunity to be involved in business and understand what is involved when you have an essential function that has to be done and someone is not there.

Perhaps most of all, Mr. President, many, unfortunately, do not understand what they have done to our country in the last few years by flooding it, inundating it with regulations and rules and laws.

I think of it in terms of the company that I used to work for. When I was corporate counsel, it was myself and a part-time assistant secretary. Right now, that same function, with similar responsibilities, is composed of four full-time attorneys, three legal assistants, and a backup division of more than 120 people. Do they do a better job than I did? Yes; I suspect they do.

But, Mr. President, what has happened is an explosion of regulation. The problem is not whether or not people should have family medical leave. The problem is whether or not the Federal Government ought to dictate the minute details of how jobs are run in this country, how things operate in this country.

The question is not whether or not we have an economy that is flexible and variable or whether or not we divert the resources of this country to micromanage things from the top; the question, with all due respect to those who worked so hard on that piece of legislation, is not whether or not you have family or medical leave. Of course you ought to have it. The question is whether or not you have a Government, a Federal Government, that sees its responsibility as one of centralizing control of the Nation, one of mandating and dictating the details of how we live our daily lives.

It may come as a surprise to some, but most Americans are pretty good at knowing what is good for them. They might even know better than those of us in Washington who so often tell them what to do.

RECESS

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 2:15 today.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will be in recess until 2:15.

There being no objection, at 12:23 p.m., the Senate recessed until 2:14; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

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

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

MORNING BUSINESS

Mr. COHEN. Mr. President, I ask unanimous consent that the Senate now go into a period of morning business with Members allowed to speak for up to 5 minutes each.

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

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

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

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is in morning business, with Senators allowed to speak for up to 5 minutes.

Mr. DORGAN. Mr. President, I ask unanimous consent to be allowed to speak for 10 minutes.

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

The Senator from North Dakota is recognize to speak for 10 minutes.

Mr. DORGAN. Mr. President, I would like to make two points today; one very brief and then I would like to make some remarks, along with my colleague, Senator ASHCROFT, and introduce a piece of legislation.

NO CHANGE IN THE FEDERAL FUNDS RATE

Mr. DORGAN. Mr. President, the first point is that the Federal Reserve Board apparently now has broken up its meeting today and announced that there will be no change in the Federal funds rate—the interest rate that the Federal Reserve sets that has a significant impact on our economy, obviously.

I have been a frequent critic of the Federal Reserve Board. I would say that, if they have decided not to increase interest rates today, I commend them for that decision. I think it is the right decision.

The Federal funds rate is already one-half of 1 percent above where it ought to be historically, given the rate of inflation. There is no justification for an interest rate increase by the Federal Reserve Board. Inflation is under control—well under control—coming down 5 years in a row. Last month there was a one-tenth of 1 percent increase in the Consumer Price Index, virtually no inflation. So there was no basis for the Federal Reserve Board to consider an interest rate increase.

Some have suggested the Fed would meet in secret today if they wanted to, go in the room, shut the door, and make the decision in secret, and it would in effect increase interest rates today in order to respond to what they consider to be the need in the marketplace. But the Fed apparently decided not to do so. Again, I want to say that I think that is the right decision for this country, and for our economy because they ought not fight a foe that does not exist with remedy that is inappropriate. That is what they would have done, if they had increased interest rates today.

I found it interesting the other day that the Washington Post had a story saying the FBI has been called out to find out who leaked information at the Fed about what the regional Fed bank presidents have recommended with respect to interest rates. I would much sooner see the FBI called out to find out who withheld information from the American people, and what they talk about is the incredible secrecy of this institution called the Federal Reserve Board. Would it not be nice if everyone could have all the information about how and when they make decisions about monetary policy instead of calling the FBI out to find out who leaked information so the American people have some knowledge about who was recommending what on interest rate policies?

Mr. President, thank you. That is therapy for me to get that off my chest this early after the Federal Reserve Board met and apparently made the right decision. There is an old saying. ''Even the stopped clock is right twice a day.'' I will not compare the Fed to a stopped clock, but at least to say that the Fed is right on interest rates. They did not change the rate. There was no justification in making a change, and they should not have made a change.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN and Mr. ASHCROFT pertaining to the introduction of S. 2108 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

PARTIAL-BIRTH ABORTIONS

Mr. SANTORUM. Mr. President, I think it is appropriate, as a result of the comments of the Senator from North Dakota and the Senator from Missouri, to talk about another issue that deals with the issue of life, an issue that will be before us in a very short few days. That is the issue of partial-birth abortions.

I took to the floor on Friday afternoon when this place was pretty empty to talk about the issue of partial-birth abortions. I said at that time that while the term ''partial-birth abortion'' is used, this is not a pro-life or pro-choice issue. This is not whether you are for or against abortion. This debate should be limited, must be limited to the procedure that we are discussing, and that is the procedure called partial-birth abortions.

I said at that time that I thought we should have a good debate, that the Senate, being the greatest deliberative body in the history of the world, should live up to its moniker, that we should have a deliberate, thoughtful debate on facts. I felt if we did have such a debate here, if we had such a deliberate, thoughtful debate, that, in fact, people who may have voted one way the last time, when presented with all the facts, in reexamining all the information that has come to light since the original vote in the Senate, might feel compelled to vote for this bill and override the President's veto.

I read an article today in the Washington Post that gave me some hope that people who consider themselves to be pro-choice can take a good look at the facts and change their mind on this procedure, this gruesome procedure. What gave me heart was an article published today in the Washington Post by Richard Cohen. Richard Cohen is a columnist who proclaims himself to be, and has consistently been, pro-choice. He believes in the woman's right to choose—in fact, in this article so states again.

Mr. Cohen, back in June of last year, wrote an article that condemned the bill.

In fact, it says, ''In Defense of Late-Term Abortions,'' Tuesday, June 20, 1995, the Washington Post.

He goes on to give his reasons why he believes that partial-birth abortions should continue to be legal in this country.

Fast forward to today an article by Richard Cohen: ''A New Look at Late-Term Abortion'':

> A rigid refusal even to consider society's interest in the matter endangers abortion rights.

He writes this article from the perspective of someone who is a defender of abortion rights, someone who still believes in a woman's right to choose, using his terms.

I ask unanimous consent to have this article printed in the RECORD.

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

A NEW LOOK AT LATE-TERM ABORTION—A RIGID REFUSAL EVEN TO CONSIDER SOCIETY'S INTEREST IN THE MATTER ENDANGERS ABORTION RIGHTS

(By Richard Cohen)

Back in June, I interviewed a woman—a rabbi, as it happens—who had one of those late-term abortions that Congress would have outlawed last spring had not President Clinton vetoed the bill. My reason for interviewing the rabbi was patently obvious: Here was a mature, ethical and religious woman who, because her fetus was deformed, concluded in her 17th week that she had no choice other than terminate her pregnancy. Who was the government to second-guess her?

Now, though, I must second-guess my own column—although not the rabbi and not her husband (also a rabbi). Her abortion back in 1984 seemed justifiable to me last June, and it does to me now. But back then I also was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong.

I didn't know it at the time, of course, and maybe the people who supplied my data—the usual pro-choice groups—were giving me what they thought was precise information. And precise I was. I wrote the ''just four one-hundredths of one percent of abortions are performed after 24 weeks'' and that ''most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger.''

It turns out, though, that no one really knows what percentage of abortions are late-term. No one keep figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown—a physician himself—wrote: ''These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not.''

Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a bit late with their pregnancy, then the word ''choice'' has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

It's true, of course, that many opponents of what are often called ''partial-birth abortions'' are opposed to any abortions whatever. And it also is true that many of them hope to use popular repugnance over late-term abortions as a foot in the door. First these, then others and then still others. This is the argument made by pro-choice groups: Give the antiabortion forces this one inch, and they'll take the next mile.

It is instructive to look at two other issues: gun control and welfare. The gun lobby also thinks that if it gives in just a little, its enemies will have it by the throat. That explains such public relations disasters as the fight to retain assault rifles. It also explains why the National Rifle Association has such an image problem. Sometimes it seems just plain nuts.

Welfare is another area where the indefensible was defended for so long that popular support for the program evaporated. In the 1960s, '70s and even later, it was almost impossible to get welfare advocates to concede that cheating was a problem and that welfare just might be financing generation after generation of households where no one works. This year, the program on the federal level was trashed. It had few defenders.

This must not happen with abortion. A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions—what seems pretty close to infanticide—are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus—and, too often, not for any urgent medical reason.

President Clinton, apparently as misinformed as I was about late-term abortions, now ought to look at the new data. So should the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

Mr. SANTORUM. Mr. President, I will not read the entire article, but it is in the RECORD, and I do not think what I do read, which is most of the article, takes away from the meaning.

He mentioned a case in his previous article in June of a woman who had an abortion and used that sort of to justify late-term abortions and particularly the partial-birth abortion procedure. He revisits that in the beginning of the article and says he still agreed this woman who did not have a partial-birth abortion but had a late-term abortion, was right to do so. But he said, ''What seemed justifiable to me last June, does not now.''

He said:

> I was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed.

You heard in the House of Representatives last week when they were debating this issue and you will hear over and over again from the advocates of partial-birth abortions that this is only done in extreme medical emergencies when fetuses have no chance of survival outside of the womb and that they are done very rarely.

Mr. Cohen says:

> I was wrong. I didn't know at the time, of course, and maybe the people who supplied my data, the usual pro-choice groups * * *

The PRESIDING OFFICER. The Chair informs the Senator from Pennsylvania that the 5 minutes have expired.

Mr. SANTORUM. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

Mrs. BOXER. Reserving the right to object, I ask my colleague, since I want to respond to some of what he said and I do not have that much time and we are under a 5-minute rule, if he can complete in 2, and then I can make my 5-minute remarks, because I cannot stay to hear the rest of my friend's remarks. So if he can complete in 2 minutes.

Mr. SANTORUM. I ask unanimous consent that the Senator from California speak for 5 minutes, and I will just continue from there.

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

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mrs. BOXER. Mr. President, I came to the floor today because I listened to the Senator's presentation, and I think it is very interesting. We have had a number of high-profile men comment on this particular vote that is coming up, and my colleague from Pennsylvania goes at length into the remarks of a columnist.

I think it is very important to listen to the women who were told that if they didn't have this particular procedure that my colleague wants to outlaw they could die, they could be made permanently infertile, they could be paralyzed for life, these women who have come to our offices to beg us to stay out of the emergency room, to stay out of the surgical room, to support the President's veto of this extreme bill.

Why do I call it extreme? I call it extreme because this bill would ban the procedure, regardless of the circumstance. It has a narrow exception, and I have it here: ''* * * to save the life of a mother whose life is endangered by a physical disorder, illness or injury, provided that no other medical procedure would suffice.''

This is the first time in history that the people who oppose abortion have made such a narrow life exception. The Hyde amendment simply says we can outlaw the procedure except ''to save the life of the mother'' if the pregnancy is carried to term.

This life exception is so narrow in this bill that a physician could only use this life-saving procedure if the woman had a preexisting condition such as diabetes, but not if he believed carrying the pregnancy forward or a Caesarean section or other methods would, in fact, endanger her life.

If a physician does choose to use this procedure, even in the situation of a preexisting condition of the woman, this physician could be hauled into court and have to provide a defense for himself.

I say to my friends, if this debate was really about outlawing this procedure, we could pass this bill in 1 minute. Every one of us who voted for the amendment that I offered, which simply said make an exception for the health and life of the mother—and we did not even leave it open-ended; we said serious adverse health risk—we

were willing to ban this procedure, every one of us who voted against this bill, if it had a true life exception and if, in fact, it had a health exception tightly drawn so that if a woman was told, ''You may not bear another child again unless you have this procedure,'' or ''You may be paralyzed for life unless you have this procedure,'' or, ''You could even die if that procedure goes forward in those cases,'' we would all vote together.

If the people who stand up here and quote columnists would come together with us, we could craft a bill in a minute that would, in fact, outlaw this procedure, except if the woman's life was threatened if the pregnancy was carried to term or she had severe health consequences facing her family. We could pass that 100 to nothing. But we don't have that before us today, because those on the other side would rather have a political hot-potato issue again.

It is sad. We can outlaw this procedure today with an exception for life of the mother or serious health impacts, but, no, better to make the President have to explain it. And let me tell you, he is explaining it.

I ask unanimous consent to have printed in the RECORD a letter dated September 23 that he has sent to us.

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

THE WHITE HOUSE,
Washington, DC, September 23, 1996.

Hon. THOMAS A. DASCHLE,
Democratic Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing to urge that you vote to uphold my veto of H.R. 1833, a bill banning so-called partial-birth abortions. My views on this legislation have been widely misrepresented, so I would like to take a moment to state my position clearly.

First, I am against late-term abortions and have long opposed them, except, as the Supreme Court requires, where necessary to protect the life or health of the mother. As Governor or Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health. I would sign a bill to do the same thing at the federal level if it were presented to me.

The procedure aimed at in H.R. 1833 poses a difficult and disturbing issue. Initially, I anticipated that I would support the bill. But after I studied the matter and learned more about it, I came to believe that it should be permitted as a last resort when doctors judge it necessary to save a woman's life or to avert serious consequences to her health.

In April, I was joined in the White House by five women who were devastated to learn that their babies had fatal conditions. These women wanted anything other than an abortion, but were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm, including, in some cases, an inability to bear children. These women gave moving testimony. For them, this was not about choice. Their babies were certain to perish before, during or shortly after birth. The only question was how much grave damage the women were going to suffer. One of them described the serious risks to her health that she faced, including the possibility of hemorrhaging, a ruptured cervix and loss of her ability to bear children in the future. She talked of her predicament:

''Our little boy had . . . hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel. This was our precious little baby, and he was being taken from us before we even had him. This was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger, as well.''

Some have raised the question whether this procedure is ever most appropriate as a matter of medical practice. The best answer comes from the medical community, which believes that, in those rare cases where a woman's serious health interests are at stake, the decision of whether to use the procedure should be left to the best exercise of their medical judgment.

The problem with H.R. 1833 is that it provides an exception to the ban on this procedure *only* when a doctor is convinced that a woman's life is at risk, but not when the doctor believes she faces real, grave risks to her health.

Let me be clear. I do not contend that this procedure, today, is always used in circumstances that meet my standard. The procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them.

At the same time, I cannot and will not accept a ban on this procedure in those cases where it represents the best hope for a woman to avoid serious risks to her health.

I also understand that many who support this bill believe that a health exception could be stretched to cover almost anything, such as emotional stress, financial hardship or inconvenience. That is *not* the kind of exception I support. I support an exception that takes effect *only* where a woman faces real, serious risks to her health. Some have cited cases where fraudulent health reasons are relied upon as an excuse—excuses I could never condone. But people of good faith must recognize that there are also cases where the health risks facing a woman are deadly serious and real. It is in those cases that I believe an exception to the general ban on the procedure should be allowed.

Further, I reject the view of those who say it is impossible to draft a bill imposing real, stringent limits on the use of this procedure—a bill making crystal clear that the procedure may be used only in cases where a woman risks death or serious damage to her health, and in no other case. Working in a bipartisan manner, Congress could fashion such a bill.

That is why I asked Congress, by letter dated February 28 and in my veto message, to add a limited exemption for the small number of compelling cases where use of the procedure is necessary to avoid serious health consequences. As I have said before, if Congress produced a bill with such an exemption, I would sign it.

In short, I do not support the use of this procedure on demand or on the strength of mild or fraudulent health complaints. But I do believe that it is wrong to abandon women, like the women I spoke with, whose doctors advise them that they need the procedure to avoid serious injury. That, in my judgment, would be the true inhumanity. Accordingly, I urge that you vote to uphold my veto of H.R. 1833.

I continue to hope that a solution can be reached on this painful issue. But enacting H.R. 1833 would not be that solution.

Sincerely,

BILL CLINTON.

Mrs. BOXER. Mr. President, in this letter, the President says that he would sign such a bill that outlawed this procedure with those humane exceptions.

So, Mr. President, as we approach this vote, I am going to be on this floor as often as I can, and I hope others will, to make the offer to my friends on the other side.

The PRESIDING OFFICER. The Chair informs the Senator from California that the 5 minutes under morning business have expired.

Mrs. BOXER. Mr. President, let's ban this procedure except for life of the mother or serious health impact.

Thank you very much, Mr. President.

(Disturbance in the galleries.)

The PRESIDING OFFICER. The Chair reminds the galleries that applause is not appropriate.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, as I was saying, quoting Mr. COHEN:

I didn't know at the time—

Mr. COHEN, who, again, previously wrote that he was in favor of allowing this procedure to be legal, says:

I didn't know at the time, of course, and maybe the people who supplied my data—the usual pro-choice groups—were giving me what they thought was precise information. And precise I was. I wrote that ''just four one-hundredths of one percent of abortions are performed after 24 weeks'' and that ''most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger.''

It turns out, though, that no one really knows what percentage of abortions are late-term. No one keeps figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown—a physician himself—wrote: ''These doctors say that while a significant number of their patients have late-term abortions for medical reasons, many others—perhaps the majority—do not.

Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a little bit late with their pregnancy, then the word ''choice'' has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

He goes on to say:

A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions—[which] seems pretty close to infanticide—are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus—and, too often, not for any urgent medical reason.

President Clinton, apparently as misinformed as I was about late-term abortions,

now ought to look at the new data. So should the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

Mr. President, what Mr. Cohen talks about is the fact that late-term abortions are not as rare as some would suggest, and that partial-birth abortions are not as rare.

The Senator from California said that we should not get involved in the emergency room. The Senator from California knows that the partial-birth abortion procedure is not an emergency procedure. It is a 3-day procedure. It takes 3 days from the time the woman presents herself to the abortionist to the time that the abortion is completed. So it can never be used in an emergency.

She also said, well, if we only had an exception for the health of the mother. The Senator from California, who debates this issue on the floor a lot, knows fully well, that health of the mother has been interpreted by courts over and over and over again to include virtually everything. When I say that, what do I mean? Yes, it includes physical health, but it includes mental health, financial health, social health, any kind of health impact. That is a limitation without limit.

There is no limitation when we put in there health of the mother. And that is exactly what she wants to accomplish. That is exactly what she wants to accomplish. She does not want to limit this procedure, or any other abortion procedure, at any time during the pregnancy for any reason. I respect her opinion. I just do not agree with it. I do not think the Members of the Senate agree with that. There is new evidence out. I hope that my colleagues—and the Senator from California made it sound like this was a pro-life/pro-choice issue. I can give her a laundry list. She knows them well, and that many people who are pro-choice here in the Senate and in the House voted for this bill to outlaw this procedure.

Why? Because this crosses the line. This goes too far. You have a person here who, in very strong terms in this article, talks about how adamantly pro-choice he is; and he in fact writes the reason we should draw the line here is because if you do not draw the line, you endanger a woman's right to choose generally because of the extremism of this position.

I do not think the Senate should go down in history as that body that allowed infanticide to continue, as so described, not only by Mr. Cohen, but by the former Surgeon General, C. Everett Koop and the Pope, and many others. Senator MOYNIHAN, others—Senator MOYNIHAN, I say to Senator BOXER, is not adamantly pro-life by any stretch of the imagination, and has said this looks perilously close to infanticide.

How often does this procedure take place? Again, let us look at all the information that we have gathered since the original vote in the Senate. This is The Sunday Record in Bergen County, NJ, September 15, 1996, just a few days ago, an article, ''The facts on partial-birth abortion.''

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

THE FACTS ON PARTIAL-BIRTH ABORTION—BOTH SIDES HAVE MISLED THE PUBLIC

(By Ruth Pabawer)

Even by the highly emotional standards of the abortion debate, the rhetoric on so-called ''partial-birth'' abortions has been exceptionally intense. But while indignation has been abundant, facts have not.

Pro-choice activists categorically insist that only 500 of the 1.5 million abortions performed each year, in this country involve the partial-birth method, in which a live fetus is pulled partway into the birth canal before it is aborted. They also contend that the procedure is reserved for pregnancies gone tragically awry, when the mother's life or health is endangered, or when the fetus is so defective that it won't survive after birth anyway.

The pro-choice claim has been passed on without question in several leading newspapers and by prominent commentators and politicians, including President Clinton.

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a ''minuscule amount'' are for medical reasons.

Within two weeks, Congress is expected to decide whether to criminalize the procedure. The vote must override Clinton's recent veto. In anticipation of that showdown, lobbyists from both camps have orchestrated aggressive campaigns long on rhetoric and short on accuracy.

For their part, abortion foes have implied that the method is often used on healthy, full-term fetuses, an almost-born baby delivered whole. In the three years since they began their campaign against the procedure, they have distributed more than 9 million brochures graphically describing how doctors ''deliver'' the fetus except for its head, then puncture the back of the neck and aspirate brain tissue until the skull collapses and slips through the cervix—an image that prompted even pro-choice Sen. Daniel P. Moynihan, D–N.Y., to call it ''just too close to infanticide.''

But the vast majority of partial-birth abortions are not performed on almost-born babies. They occur in the middle of the second trimester, when the fetus is too young to survive outside the womb.

The reason for the fervor over partial birth is plain: The bill marks the first time the House has ever voted to criminalize the abortion procedure since the landmark Roe v. Wade ruling. Both sides know an override could open the door to more severe abortion restrictions, a thought that comforts one side and horrifies the other.

HOW OFTEN IT'S DONE

No one keeps statistics on how many partial-birth abortions are done, but pro-choice advocates have argued that intact ''dilation and evacuation''—a common name for the method, for which no standard medical term exists—is very rare, ''an obstetrical non-entity,'' as one put it. And indeed, less than 1.5 percent of abortions occur after 20 weeks gestation, the earliest point at which this method can be used, according to estimates by the Alan Guttmacher Institute of New York, a respected source of data on reproductive health.

The National Abortion Federation, the professional association of abortion providers and the source of data and case histories for this pro-choice fight, estimates that the number of intact cases in the second and third trimesters is about 500 nationwide. The National Abortion and Reproductive Rights Action League says ''450 to 800'' are done annually.

But those estimates are belied by reports from abortion providers who use the method. Doctors at Metropolitan Medical in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation. They are the only physicians in the state authorized to perform abortions that late, according to the state Board of Medical Examiners, which governs physicians' practice.

The physicians' estimate jibe with state figures from the federal Centers for Disease Control, which collects data on the number of abortions performed.

''I always try an intact D&E first,'' said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity for fear of retribution. If the fetus isn't breech, or if the cervix isn't dilated enough, providers switch to traditional, or ''classic,'' D&E—in utero dismemberment.

Another metropolitan area doctor who works outside New Jersey said he does about 250 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure. ''I do an intact D&E whenever I can, because it's far safer,'' he said.

The National Abortion Federation said 40 of its 300 member clinics perform abortions as late as 26 weeks, and although no one knows how many of them rely on intact D&E, the number performed nationwide is clearly more than the 500 estimated by pro-choice groups like the federation.

The federation's executive director, Vicki Saporta, said the group drew its 500-abortion estimate from the two doctors best known for using intact D&E, Dr. Martin Haskell in Ohio, who Saporta said does about 125 a year, and Dr. James McMahon in California, who did about 375 annually and has since died. Saporta said the federation has heard of more and more doctors using intact D&E, but never revised its estimate, figuring those doctors just picked up the slack following McMahon's death.

''We've made umpteen phone calls [to find intact D&E practioners],'' said Saporta, who said she was surprised by The Record's findings. ''We've been looking for spokespeople on this issue. . . . People do not want to come forward [to us] because they're concerned they'll become targets of violence and harassment.''

WHEN IT'S DONE

The pro-choice camp is not the only one promulgating misleading information. A key component of The National Right to Life Committee's campaign against the procedure is a widely distributed illustration of a well-formed fetus being aborted by the partial-birth method. The committee's literature calls the aborted fetuses ''babies'' and asserts that the partial-birth method has ''often been performed'' in the third trimester.

The National Right to Life Committee and the National Conference of Catholic Bishops

have highlighted cases in which the procedure has been performed well into the third trimester, and overlaid that on instances in which women have had less-than-compelling reasons for abortion. In a full-page ad in the Washington Post in March, the bishops' conference illustrated the procedure and said, women would use it for reasons as frivolous ad ''hates being fat,'' ''can't afford a baby and a new car,'' and ''won't fit in to prom dress.''

''We were very concerned that if partial-birth abortion were allowed to continue, you could kill not just an unborn, but a mostly born. And that's not far from legitimizing actual infanticide,'' said Helen Alvare, the bishops' spokeswoman.

Forty-one states restrict third-trimester abortions, and even states that don't—such as New Jersey—may have no physicians or hospitals willing to do them for any reason. Metropolitan Medical's staff won't do abortions after 24 weeks of gestation. ''The nurses would stage a war,'' said a provider there. ''The law is one thing. Real life is something else.''

In reality, only about 600—or 0.04 percent—of abortions of any type are performed after 26 weeks, according to the latest figures from Guttmacher. Physicians who use the procedures say the vast majority are done in the second trimester, prior to fetal viability, generally thought to be 24 weeks. Full term is 40 weeks.

Right to Life legislative director Douglas Johnson denied that his group had focused on third-trimester abortions, adding, ''Even if our drawings did show a more developed baby, that would be defensible because 30-week fetuses have been aborted frequently by this method, and many of those were not flawed, even by an expansive definition.

WHY IT'S DONE

Abortion rights advocates have consistently argued that intact D&Es are used under only the most compelling circumstances. In 1995, the Planned Parenthood Federation of America issued a press release asserting that the procedure ''is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality.''

In February, the National Abortion Federation issued a release saying, ''This procedure is most often performed when women discover late in wanted pregnancies that they are carrying fetuses with anomalies incompatible with life.''

Clinton offered the same massage when he vetoed the Partial Birth Abortion Ban Act in April, and surrounded himself with women who had wrenching testimony about why they needed abortions. One was an anti-abortion marcher whose health was compromised by her 7-month-old fetus neuromuscular disorder.

The woman, Coreen Costello, wanted desperately to give birth naturally, even knowing her child would not survive. But because the fetus was paralyzed, her doctors told her a live vaginal delivery was impossible. Costello had two options, they said: abortion or a type of Caesarean section that might ruin her chances of ever having another child. She chose an intact D&E.

But most intact D&E cases are not like Coreen Costello's. Although many third-trimester abortions are for heart-wrenching medical reasons, most intact D&E patients have their abortions in the middle of the second trimester. And unlike Coreen Costello, they have no medical reason for termination.

''We have an occasional amnio-abnormality, but it's a minuscule amount,'' said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there: ''Most are Medicaid patients black and white, and most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers.''

The physician who teaches said: ''In my private practice, 90 to 95 percent are medically indicated. Three of them today are Trisomy–21 [Down syndrome] with heart * * *, the mother has brain cancer and needs chemo. But in the population I see at the teaching hospitals, which is mostly a clinic population, many, many fewer are medically indicated.''

Even the Abortion Federation's two prominent providers of intact D&E have showed documents that publicly contradict the federation's claims.

In a 1992 presentation at an Abortion Federation seminar, Haskell described intact D&E in detail and said he routinely used it on patients 20 to 24 weeks pregnant. Haskell went on to tell the American Medical News, the official paper of the American Medical Association, that 80 percent of those abortions were ''purely elective.''

The federation's other leading provider, Dr. McMahon, released a chart to the House Judiciary Committee listing ''depression'' as the most common maternal reason for his late-term non-elective abortions, and listing ''cleft lip'' several times as the fetal indication. Saporta said 85 percent of McMahon's abortions were for severe medical reasons.

Even using Saporta's figures, simple math shows 56 of McMahon's abortions and 100 of Haskell's each year were not associated with medical need. Thus, even if they were the only two doctors performing the procedure, more than 30 percent of their cases were not associated with health concerns.

Asked about the disparity, Saporta said the pro-choice movement focused on the compelling cases because those were the majority of McMahon's practice, which was mostly third-trimester abortions. Besides; Saporta said, ''When the Catholic bishops and Right to Life debate us on TV and radio, they say a woman at 40 weeks can walk in and get an abortion even if she and the fetus are healthy.'' Saporta said that claim is not true. ''That has been their focus, and been playing defenses ever since.''

WHERE LOBBYING HAS LEFT US

Doctors who rely on the procedure say the way the debate has been framed obscures what they believe is the real issue. Banning the partial-birth method will not reduce the number of abortions performed. Instead, it will remove one of the safest options for mid-pregnancy termination.

''Look, abortion is abortion. Does it really matter if the fetus dies in utero or when half of it's already out?'' said one of the * * * method at Metropolitan Medical in Englewood. * * * what's safest for the woman,'' and this procedure, he said, is safest for abortion patients 20 weeks pregnant or more. There is less risk of uterine perforation from sharp broken bones and destructive instruments, one reasons the American College of Obstetricians and Gynecologists has opposed the ban.

Pro-choice activists have emphasized that nine of 10 abortions in the United States occur in the first trimester, and that these have nothing to do with the procedure abortion foes have drawn so much attention to. That's true, physicians say, but it ducks the broader issue.

By highlighting the tragic Coreen Costellos, they say, pro-choice forces have obscured the fact that criminalizing intact D&E would jettison the safest abortion not only for women like Costello, but for the far more common patient: a woman 4½ to 6 months pregnant with a less compelling reason—but still a legal right—to abort.

That strategy is no surprise, given Americans queasiness about later-term abortions. Why reargue the morality of or the right to a second-trimester abortion when anguishing examples like Costello's can more compellingly make the case for intact D&E?

To get around the bill, abortion providers say they could inject poison into the amniotic fluid or fetal heart to induce death in utero, but that adds another level of complication and risk to the pregnant woman. Or they could use induction—poisoning the fetus and then ''delivering'' it dead after 12 to 48 hours of painful labor. That method is clearly more dangerous, and if it doesn't work, the patient must have a Caesarean section, major surgery with far more risks.

Ironically, the most likely response to the ban is that doctors will return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, pro-choice advocates now wonder how safe from attack that is, now that abortion foes have American's attention.

Congress is expected to call for the override vote this week or next, once again turning up the heat on Clinton barely seven weeks from the election.

Legislative observers from both camps predict that the vote in the House will be close. If the override suceeds—a two-thirds majority is required—the measure will be sent to the Senate, where the override is less likely, given that the initial bill passed by 54 to 44.

. . .

Mr. SANTORUM. Mr. President, let me, if I can, just quote from some of the article as to the facts that were uncovered.

You heard Mr. Cohen reference Dr. Brown in his work with the Washington Post finding out about more of these procedures being performed in more late-term abortion procedures being done in this country. Let me share with you this analysis done by a Ruth Padawer, who is the health reporter for the newspaper. She talks about how the prochoice people say that this is a very rare procedure. I quote:

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a ''minuscule amount'' are for medical reasons.

What are we talking about here? We are talking about abortions performed—I know this is an uncomfortable topic for many people to listen to, and I am sure some people are tuning out and turning off. But this is going on in this country. We have an obligation to face up to who we are and what we are doing here, and not turn our backs because it is just not proper dinner conversation.

We are performing abortions in this country on babies, fully formed babies in their third trimester, and viable babies who are in the late second. I am talking about 22, 23, 24 weeks, the second trimester.

As I said on Friday, my wife is a neonatal intensive care nurse. She took care of 22-week-olds and 21-week-olds and 24-week-olds in Pittsburgh at Magee Woman's Hospital. She has told me story after story of how many of them have survived and how the percentages are increasing.

We are talking about delivering these babies, for no medical reason, feet first through the birth canal, and then kill, by taking a pair of metzenbaum scissors and shoving them into the base of the skull, inserting the catheter into the brain and sucking the brains out to kill the baby, and then deliver the head. And 1,500 times, according to this article, it happens in New Jersey alone every year. The facts, as presented by those who argued against the bill, the facts they quoted from reputable sources, were only a few hundred in the country done every year.

The article goes on:

But those estimates are belied by reports from abortion providers who use the method. Doctors at Metropolitan Medical Center in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by partial-birth abortions.

''I always try an intact D&E (which is the medical term for partial-birth abortion) first,'' said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity.

Another metropolitan area doctor who works outside New Jersey said he does about 260 post 20-week abortions a year, of which half are partial-birth abortions.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. SANTORUM. Mr. President, I ask unanimous consent for 5 additional minutes.

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

Mr. SANTORUM. Thank you, Mr. President.

The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E partial-birth abortions since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure.

In fact, he says, ''I do an intact D&E whenever I can * * *''

This is not a rare procedure. This is a procedure that is done all too frequently in this country. Those were not presented to this Senate when it deliberated on this bill the first time. Those facts were somehow not researched well by the prochoice groups, like the Guttmacher Institute that provided us the statistics we were using in the first place, because there is no, as Mr. Cohen said, national record keeping of this. There is no agency in Government that keeps track of this. We only have to go by the people who provide the abortions to tell us what they do. And of course—I shouldn't say ''of course''—but what has happened, in fact, is that they provided us a number that is not anywhere close to the numbers that really go on in this country.

I would suggest that if they were so cavalier with their numbers as to how many, how cavalier are they with other facts associated with this issue? The fact of the matter is, this is not a prolife/prochoice issue. This is an issue about how far we will go as a country, how far we have gone in blurring the lines.

I asked the question to a person the other day on the Fox Morning News when I was on last week—I will ask it to the Senator from California, if she would answer—and that is, if we had a 24-week baby or 25-week or 26-week baby delivered, normal baby, healthy fetus, that someone just decided, as these articles indicate, they wanted to have a late-term abortion because they just did not get around to it sooner, or they had a change of heart, if that baby were pulled through the birth canal, feet first, and delivered, everything except for the head, and by some mistake of the doctor, the baby's head also was delivered, instead of the doctor, as has been testified before having to hold the baby's head in so he can puncture the skull and suction the brains, if the doctor let the baby's head slip out, I ask the Senator from California, if that baby's head slipped out and that baby was born, would the doctor and the mother have a right to choose whether that baby should live? Would the doctor be able to kill the baby at that point?

I am happy to yield time to the Senator from California if the Senator would like to answer that question. Would the doctor be permitted at that point to kill the baby?

Mrs. BOXER. Well, the Senator clearly does not understand the Supreme Court decision of Roe versus Wade, which I strongly support, and I daresay the majority of Senators and the majority of the American people support. That is, a woman has the right to choose in the first trimester, and after that the State comes in with strong and strict controls. A woman does not have an unfettered right to choose after the first trimester. The Senator should know that and should read that case. She does not, except if her life is threatened.

I would assume, frankly, since the Republican platform does not even have a like exception——

Mr. SANTORUM. I reclaim my time. I would like an answer. If I can, let me restate the question again, based on the information that has been read here and the facts that have been provided.

You have the former Surgeon General of the United States who says this procedure is never medically necessary. You have an article that I will be reading from later, from a series, a group of gynecologists and obstetricians that say partial-birth abortion is bad medicine.

You have some organizations who support—I think the American College of Gynecologists opposes the legislation, but not because they support partial-birth abortions. They do not recognize that as proper medical procedure. They do not like any criminalization of anything. They do not like to have doctors be subject to any kind of criminal complaints. That is why they are opposed to it. That is what they said in their letter to Congress.

We should focus on the question. The fact of the matter is, we have sufficient evidence here that these are not medically necessary abortions. They are not to save the life of the mother. In fact, we have a provision in our bill, as the Senator knows, to make an exception for the life of the mother. They are not medically necessary. It is for the health of the mother. You have physician after physician after physician saying so. So talk about the facts.

I ask this question—and I know the Senator would like to give a long answer and give a speech—but see if you can answer the question very succinctly.

The PRESIDING OFFICER (Mr. GRAMS). The time of the Senator has expired.

Mr. SANTORUM. I ask unanimous consent for 1 minute.

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

Mr. SANTORUM. If a partial-birth abortion was being performed on this baby, and for some reason the head slipped out and the baby was delivered, which, in my understanding, is not unprecedented, would the doctor, in consultation with the mother, be able to choose to kill the baby?

Mrs. BOXER. I say to my friend that I am going to take 5 minutes to answer his question because it is a very serious question and I intend to answer it in my time, so he can finish up in his time.

Mr. SANTORUM. Mr. President, after the Senator from California speaks, I will talk about the medical necessity for this procedure, and I will cite a group of physicians and other people, other physicians, who have written extensively on the fact that this procedure is never medically indicated. In fact, it is contraindicated. In fact, it is more dangerous to the mother to have one than to do other procedures that are not under the debate here in the Senate.

I will get to that as soon as the Senator answers my question.

Mr. DORGAN. Mr. President, I do not want to interrupt the debate, and I have a different subject I want to comment on.

I ask unanimous consent that if the Senator from California is going to speak for 5 minutes, that I be allowed by unanimous consent to follow the Senator from California for 10 minutes.

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

Mrs. BOXER. I thank my friend from North Dakota because I know he has been patiently waiting to talk about another topic. I was not going to come back to the floor, but I understand that the Senator from Pennsylvania, in what I consider to be a very unfair way, described my position on a woman's right to choose. Now, I would never, never do that for another Senator because this is a crucial issue.

As a mother, as a grandmother, whose grandson is the most precious thing in my life, I do not want to hear that there is another Senator on the floor talking about how I regard pregnancy, motherhood, or childbearing. I

would rather have the chance, if someone is going to attack me on an issue, that that person be courageous enough to do it when I am on the floor of the U.S. Senate. So I have come back to the floor to speak.

What I want to say is that the vast majority of Americans believe this entire subject should be left to the privacy of families, to the religious convictions of our people, and that U.S. Senators do not belong in the hospital room, they do not belong in the consulting room, and if the woman is told by a doctor, ''You might die unless I use a certain procedure, you might die, and the children you have now will not have a mother,'' and if that doctor believes this procedure is the only one to save the life of that woman or to spare her a life of infertility or paralysis, I believe families should have the right to make that choice.

If the Senator from Pennsylvania was faced with that choice, if his daughter was in that situation, I really do believe in his heart of hearts if this was not a hot political issue, that he would want the ability, with his God, with his family, to make this decision.

Now, my colleague talks about doctors who say this procedure is not necessary. Some believe it is not. They do not have to use this procedure.

The American College of Obstetricians and Gynecologists, who do this work every day, opposes this legislation that does not have an exception for the life and health of the mother. The American Medical Women's Association opposes this legislation that does not have a true life exception or a health exception. The California Medical Association strongly opposes this extreme legislation.

Now, I just want to put on the record when we are talking about emergency procedures and abortions that take place in late term, this is not about a woman's right to choose. This is about an emergency health situation. My colleagues come here and quote columnists, and on and on. I wish they would look in the eyes of the women in this country who have had this procedure who know because of this procedure they were able to bear children.

I say to my colleagues, I know this is a hard vote, but when the American people understand that the legislation before the Senate has no life exemption, it only says if a woman has a preexisting condition her doctor may use that procedure, and then he will have to defend himself in a courtroom if he does, but it does not have the Hyde language—life-of-the-mother, straightforward—that we have seen in other pieces of legislation. That Hyde exception is not in this bill. That is why some of my colleagues are going to stand against this bill.

Now, the Boxer amendment we put forward said very simply that this procedure can only be used if it can spare a woman's life or if she could suffer long-term, serious, adverse health impacts. Now, does that not sound reasonable? Does that not sound fair?

I say to my colleagues, if they look in their heart and it happened to their wife, and the doctor said, ''She will die if I do not use this procedure,'' not because she has diabetes or a preexisting condition but because the problem with the fetus is so great, if she does not have this procedure she could bleed to death, I say to my colleagues, if they look in their heart, and the doctor looked at them and said, ''You could lose your wife unless I use this procedure,'' they look in their heart and they are honest; or, if the doctor said, ''You will never have another baby unless I use this procedure,'' or she will be paralyzed from the waist down and in a wheelchair for the rest of her life.

I honestly believe—I do believe—my colleagues, that if you take away the 30-second commercials that Americans are going to see in this campaign, you would say to the doctors, ''Save my life.'' And that is all we are asking. All we are asking is only use this procedure if the woman's life is at stake or she would suffer serious adverse health risks if the procedure was not used. I think that is a moderate position. Roe versus Wade does not allow abortions at the end term. The State has a right to regulate it. I hope Senators will not misstate other Senators' positions. It is too important of a debate.

Thank you very much, Mr. President. I yield my time.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

WATER ISSUES

Mr. DORGAN. Mr. President, I wish to address a different subject. It has to do with water issues, a subject that will cause some eyes to glaze over perhaps in some quarters, but an important subject to my State.

You know that I come from a small State. I come from the State of North Dakota, which is large in expanse, 10 times the size of Massachusetts, but with 640,000 people. So it is a sparsely populated State.

A lot of people do not know that we have a flood in North Dakota that came and stayed—a permanent flood the size of the State of Rhode Island. It was not an accidental flood. It was a flood that came and stayed in my State because 50 years ago there were some who felt that we should harness the Missouri and Mississippi Rivers and, as part of the flood control provisions called the Pick-Sloan Act, to harness the Missouri River so that it didn't flood the cities downstream. So that they could have reliable navigation downstream, they decided, ''Let us build some dams on the Missouri River.'' One of those dams was built in North Dakota. President Eisenhower came out to dedicate the dam. It is called the Garrison Dam.

What the Federal Government said then to the State of North Dakota is, in order for us to control flooding downstream and to protect the larger cities downstream, would you please play host to a large flood that comes and stays forever? The people of North Dakota said, why would we want to play host to a large flood that comes to stay, a one-half-million-acre flood forever? The Federal Government says, if you will do that, we will make certain promises to you. We will promise that that dam will be able to generate cheap hydroelectric power, and that will benefit the residents of the region. And, No. 2, more importantly, we will allow you to take the water from behind that dam and move it all around your State for economic and municipal and rural water systems. That will help you develop economically, and it will provide new jobs and new opportunities for your State.

So the people of North Dakota 50 years ago said, ''Well, that sounds like a reasonable proposition.'' And the dam was built and dedicated, as I said, by President Eisenhower in the 1950's. The Garrison diversion project was authorized in 1965 by the Congress. Work began on it, and in the 1970's it became very controversial. In fact, some portions of this project, some features to move water around our State, became so controversial that some of the major environmental organizations in the country decided to try to kill the project altogether. Remember, this is part of a promise that was made to North Dakota that relates very much to its economic opportunity and its economic future.

Recognizing that it was very troublesome to have the opposition of some of these major organizations, I worked to reformulate this project. In 1986 the Congress passed a reformulation act called the Garrison Diversion Reformulation Act. This year, 10 years later, we appropriated $23 million for this project. That brings it to nearly $350 million during the past 10 years since it was reformulated. Now it appears that we will once again be required in the next Congress to make a final revision in this project in order to see its completion for our State.

A substantial amount has been done in North Dakota with this project; $200 million, in what is called an MR&I fund, has been available to North Dakota to move water around the State with a southwest pipeline in southwestern North Dakota. It has improved water quality in many communities in North Dakota.

So we have derived substantial benefit from it. But we have not been able to move Missouri water to the eastern part of North Dakota into the Red River to help the cities of Fargo and Grand Forks, among others. That has not been completed, and all of us are anxious to get that done.

I hope in the next Congress to propose, along with my colleagues, a final revision of the Garrison diversion project that will achieve two goals: First, with the realistic constraints that we have on financing here in the

Congress and the environmental restraints that exist on new environmental standards, I think we can reduce the authorized cost of this project for the American taxpayers and we can substitute a substantial State water development fund for the irrigation projects that are currently authorized. That would give the State much more flexibility in meeting its water needs, which might include irrigation but would include many other things as well.

Second, in a project revision we can make appropriate changes to the features of the project in order to finally move the Missouri River water from the western part of our State to the eastern part of our State for municipal, rural, and industrial purposes.

I expect that the proposal to revise a water program in North Dakota would be referred to the Senate Energy Committee, on which I sit, and it is my hope that the Congress will agree to make some practical revisions in this project; first, to save money, but, second and more importantly, to finally complete this comprehensive project for North Dakota.

I expect that we will probably hold some hearings in North Dakota late in this year in order to take testimony from North Dakotans, myself, and my colleagues from North Dakota, to talk about the revisions that are necessary in order to develop a statewide consensus. That would include working with the Governor, the State legislature, Indian tribes, local communities, the Garrison Conservancy District, North Dakota Water Coalition, environmental groups, water users, and virtually all interested North Dakotans in order to reach some kind of consensus on this project.

This is not a project in which the State of North Dakota went to the Federal Government and said, ''By the way, would you give us something? Could we implore you to provide for us a water project?'' It didn't happen that way at all. The Federal Government came to our State and said, ''We would like you to play host to a permanent flood, and, if you do, we will provide you this benefit.'' This benefit called the Garrison conservancy project—or the Garrison diversion project, rather—included, first, an authorized 1 million acres of irrigation. Then it was downsized to 250,000 acres; then downsized again to 130,000 acres. It had a series of canals and features by which water could be pumped and moved from the western part of North Dakota to the eastern part of North Dakota.

The feature that was included in the 1986 Reformulation Act that now appears not to be able to be built with respect engineering standards and other standards that would be practical is something called the Sykeston Canal. That is a key feature that involves the moving of water through the features in this project from the western part of the State to the eastern part of the State.

The Garrison Conservancy District is now proposing that it be replaced with a pipeline proposal. There are other ideas as well. The pipeline proposal I think has some merit, and I think it is an approach that might well be workable. But it seems to me in reinvestigating this project we will have to find a feature that replaces the Sykeston Canal.

The Sykeston Canal was put in in the first place in 1986 because the Lonetree Reservoir, the original feature which was so enormously controversial nationally, in 1996 when the Sykeston Canal was proposed, it was judged at that point that it may or may not be practical, and if it was not, we would have to revisit the issue. It seems to me that we will have to revisit that issue next year.

Some would say that North Dakota has not gotten what it should get from this project. Some are very impatient. I recognize that. But about $350 million has been made available in expenditures in pursuit of completing this water project, including the $200 million for the MR&I fund. We have made substantial progress in a wide range of areas. But now we want to finish this project and do it in a reasonable time. We think that this is an achievable goal. It is not easy to find consensus on all of these issues, but this project is much more important than some would realize.

North Dakota is a semiarid State with 15 to 17 inches of rainfall a year. The ability to use the water in this reservoir for agricultural and rural municipal purposes is critical to the future of our State. Our State struggles to keep people. We have 640,000. We used to have 680,000 not too many years ago. And to keep people in North Dakota—a wonderful State with a low crime rate, with a wonderful education system and a lot of other advantages—we must provide jobs and must provide opportunity. That is what this project is about.

Some needs remain unchanged. There is a continuing requirement to permanently solve the water problems of the Devil's Lake basin in my State where there is substantial flooding at the moment. That lake, the Devil's Lake area, suffers from intermittent cycles of ruinous draught and chronic flooding, and that warrants the construction of inlets and outlets as a part of a comprehensive water plan. We hope that will be excluded in the Garrison Diversion Project.

Finally, a final revision would have to meet the needs of native Americans who suffered the most in the inundation of their lands in North Dakota for this project.

In the final analysis, this issue is about opportunity and jobs in our State. It is about good faith on the part of the Federal Government to fulfill its obligations to North Dakota. All of us are impatient that we get this completed. But the reality is projects of this size are never completed quickly or without problems. We have met the challenges in the past, will in the future, and hope to provide proposed revisions that will allow us to finally complete this project.

North Dakotans' elected leaders—Republicans and Democrats —every major elected leader in our State for three decades has spoken with one bipartisan voice on this issue. For a State the size of North Dakota, that is crucial. We must plan together, work together, and pull together if we are to finish this project for the future of North Dakota. I hope that will be the case. I hope we will make some final revisions and take meaningful strides to completion of a dream in our State in the next Congress.

I would like to reiterate that for some 50 years, North Dakota has sought to realize the benefits of federally assisted water development since Congress proposed the Garrison diversion project as the backbone of State water development. Federal law provided that this comprehensive water plan was to accompany the construction by the Corps of Engineers of the Garrison Dam, which provided substantial flood control and navigation benefits for downstream States.

Last week the Congress approved $23 million to continue work on the Garrison diversion project in North Dakota. Nearly $350 million has been appropriated for Garrison diversion since the Congress enacted my legislation in 1986 making revisions in the project.

The Garrison project is not completed but it has generated hundreds of jobs and has brought quality drinking water and irrigation systems to three Indian reservations and rural and municipal water systems to dozens of communities all across North Dakota.

It now appears that further revisions will have to be made in the authorization of this project in order to see it to completion.

During the next Congress, I hope to propose, along with my colleagues, a final revision of the Garrison project that will achieve two goals. In tune with current fiscal constraints and environmental standards, we can reduce the authorized cost of the project and we can substitute a State water development fund for the irrigation projects to give the State more flexibility in meeting its water needs. Second, in a project revision we can make appropriate changes to the features in order to finally move Missouri River water throughout the State for municipal, rural, and industrial purposes.

I would expect that legislation to revise the project would be referred to the Senate Energy Committee, on which I sit. It would be my hope that the Congress would agree to make some practical revisions in the project to save money and to finally complete a comprehensive project for North Dakota.

I expect the North Dakota congressional delegation will hold some hearings in North Dakota toward the end of

this year to take testimony from North Dakotans about the revisions necessary in order to meet the State's current water needs and to finally finish work on the project. We will work with the governor, the State legislature, Indian tribes, local communities, the Garrison Conservancy District, the North Dakota Water Coalition, environmental groups, water users and all interested North Dakotans in order to reach a statewide consensus on this issue.

Mr. President, I'd like to offer my colleagues some history on how the Garrison diversion project got started and why a final revision is necessary in order to complete the project.

In the 1940's the Federal Government wanted to harness the Missouri River to prevent massive downstream flooding in States along the Lower Missouri and Mississippi Rivers. Annual flood damage to downstream cities on the Missouri River was very costly. Also, the lack of stable water levels prevented reliable commercial navigation on the Missouri River.

So the Federal Government proposed a series of six dams, one of which was to be located in North Dakota. The Garrison Dam would wall up water in a reservoir that would be one-half million acres in size. In short, the Federal Government asked North Dakota to play host to a permanent flood as big as the entire State of Rhode Island.

The Federal Government said if you North Dakotans will do that, we will provide you with some significant benefits. The dam itself will generate low cost hydro-electric power and you will have access to some of this inexpensive electricity for rural development. And more importantly, the Federal Government will provide a Garrison diversion project which will allow you to move reservoir water around your State for massive irrigation—over 1 million acres—and for municipal, rural, and industrial uses.

The Army Corps of Engineers completed work on the dam in the mid-1950's. The permanent flood arrived in North Dakota and the downstream States received the bulk of the immediate benefits. The Missouri River no longer raged with uncontrolled flooding in the spring. Downstream navigation and barge traffic was reliable once again.

For North Dakota, the Congress authorized in 1965 a Garrison diversion project with water systems and an irrigation plan—downsized to 250,000 acres—as a payment for our permanent flood. The features of that project included a series of canals and pumping stations that would move water from the Missouri River in the western part of North Dakota to the eastern part of our State, all the way to the Red River and would allow for substantial amounts of irrigation with the diverted water along the way.

Some features of the Garrison diversion project became very controversial in the 1970's and national environmental organizations attempted to kill the project. The result was that progress on the project was slowed.

In 1986 the Congress enacted my legislation reformulating the Garrison diversion project and resolving the controversies. The irrigation features were reduced in scope to 130,000 acres and a municipal and industrial water fund of $200 million was created and given priority in appropriations.

A new feature called the Sykeston Canal was created to be a replacement for the Lonetree Reservoir, which had become a lightening rod for opposition to the project. At the time, the engineering and cost evaluation of the Sykeston Canal was suspect and we agreed then that if the Sykeston Canal proved to be unworkable we would have to revisit that issue.

The Garrison Diversion Unit Reformulation Act also provided for a water treatment facility to treat Missouri River water that would reach the Hudson Bay drainage after it flowed through for use by cities such as Fargo and Grand Forks along the Red River. The act also established requirements for wildlife mitigation, and for recreation development in North Dakota.

In the intervening years since the 1986 Reformulation Act, Congress has provided nearly $350 million in expenditures, most of which was used for the $200 million MR&I Fund. North Dakota has made enormous progress in building a southwest water pipeline and many other expenditures that have improved water delivery for cities and towns with undrinkable or inadequate water in our State.

However, we are impatient in wanting to finally finish the features of the project and move Missouri water to eastern North Dakota so that our eastern cities have an assured supply of municipal and industrial water.

It is now clear that the Sykeston Canal is not a workable feature, from both an engineering and a cost standpoint so we must develop a new connecting link can be completed in a way that achieves our goal.

Therefore, it is necessary to make one last revision to this project. This final revision should include a substitute for the Sykeston Canal, as well as converting the bulk of the authorized irrigation acreage to a more flexible state water development fund that can be used for a wide range of North Dakota needs.

The Garrison Conservancy District has proposed a pipeline approach as a replacement for the Sykeston Canal. I believe that has substantial promise. Most of the work has been completed on the key features of this project and we are close to being able to realize the dream of a water diversion project that will help all of our State.

Naturally, some needs remain unchanged. There is a continuing requirement to permanently solve the water problems of the Devils Lake Basin. The lake suffers from an intermittent cycle of ruinous drought and chronic flooding, which warrants the construction of an inlet/outlet system as part of a comprehensive water management plan for the basin. Presently, Devils Lake is threatened by a 120-year flood, which may require the construction of an emergency outlet for which plans have already been developed.

Likewise, a final Garrison plan must meet the water development needs of native Americans and citizens of the Red River Valley. Native Americans suffered the most from the inundation of lands in North Dakota and their requirements for MR&I and irrigation must be addressed by the Congress. The cities of Fargo and Grand Forks and communities up and down the Red River Valley likewise look to Garrison diversion as the only realistic resource for problems of water quality and quantity.

The final form of Garrison diversion will also continue the State's commitment to protect and enhance wildlife and habitat. It has established a precedent-setting wildlife trust fund. Recreational development provided under Garrison diversion will also contribute to fish and wildlife management.

In the final analysis, this issue is about a future of jobs and opportunity in North Dakota's future. And it is about good faith—on the part of the Federal Government to fulfill its pledge to the people of North Dakota for water development.

All of us are impatient to get this project completed. But the reality is projects of this size are not completed quickly just because they are so massive in scope. Controversies must be resolved.

Since the project was authorized in the mid-1960's, North Dakota's elected leaders have spoken with one bipartisan voice in support of this project and I hope that will continue to be the case. It takes all of the collective energy that we can muster in a State of our size to get this project completed. We must plan together, work together and pull together to finish the work on this project.

Mr. COVERDELL. Mr. President, are we functioning as in morning business, each Senator allotted time?

The PRESIDING OFFICER. The Senator from Georgia is correct. We are operating in morning business. Each Senator is allotted up to 5 minutes.

VALUJET

Mr. COVERDELL. Mr. President, I rise today on a matter of vital concern to the economic well-being of thousands of Georgia families. I think we all remember the tragedy of the event in May, May 11, when ValuJet 592 plunged into the Florida Everglades. And, forever, as with any incident like this, we all are grieving over the families that were affected.

However, following this investigation, ValuJet airlines was grounded and went through the most thorough, grinding analysis of every aspect of

their procedures possible. Because, obviously, safety is first and foremost, the center of any question as to whether the airlines could return to the air. I do not think it is generally known that on August 29, at 3:45 p.m., after having gone through this arduous procedure, the Federal Aviation Administration returned ValuJet airline's carrier operating certificate. In their own press release it says, ''This action will permit ValuJet to resume operations at a future date if the airline is found to be managerially and financially fit by the Department of Transportation.''

The point I want to make here is that 4,000 employees have been unable to draw a paycheck; 4,000 homes, not to mention the hundreds of business associated with the peripheral support of the airline, they have not been able to draw a paycheck. The FAA settled the preeminent question, is the airline safe? And they returned the certificate.

The Department of Transportation, which I had not realized, also must verify or issue a certificate to allow the airline to return to operations. It is now September 24, nearly a full month—and this is just the story of Washington over and over and over. The Department of Transportation said, on August 29, that the background and experience of ValuJet's management team fully qualifies them to oversee the carrier's operation. The Department of Transportation review of ValuJet, its forecast of current financial condition, finds that, ''the company continues to have available to it funds sufficient to allow it to recommence operations at its planned, scaled-back level without undue economic risk to consumers. ValuJet has taken a number of steps to strengthen management procedures and has demonstrated a disposition to comply with all applicable laws and regulations.''

August 29: FAA returns the certificate. It is safe. August 29: The Department of Transportation issues its findings that in the three major criteria it is to review it appears the airline is ready to fly. Today is September 24, and there is not one engine turning and there is not one paycheck being issued to one of those 4,000 families. In fact, we are being threatened with firing the remaining 400 employees. This is not right. This is not right. This is what everybody out there becomes so incensed about in the Washington apparatus. This airline is now ready to fly. Those workers need to be put back to work. The economic health that this airline represents needs to be returned to the air.

They have met the criteria that their Government demanded for safety and they have met the other basic criteria. We are now mired in bureaucracy. There was a period of time when this press release was issued, 7 days, during which anybody who had anything to say could say it. The airline had 4 days to comment on it. That has happened. It is long since passed. We still do not have the authorization to fly. I am just stunned by it. I do not know why. It happens every day in this town, the insensitivity, the 9 to 5 attitude. So what if 4,000 people are not getting a paycheck? So what if every day that goes by actually threatens one of the major criteria, economic solvency? Obviously, they do not become more solvent by sitting nailed to a tarmac. So what if we are about to fire 400 more people, even though FAA has said it is ready to go and DOT has said for all practical purposes it is ready to go?

Mr. President, these folks need to get their bureaucratic mishmash settled, and they need to get this airline back in the air, and they need to get these families economically solvent and able to pay their mortgages and pay for their kids' education, and get their families back together.

Mr. President, I can see the consternation on your face, which means my 5 minutes has expired. I appreciate the Chair's patience, and I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, while my colleague from California was on the floor I didn't get a chance to hear her, and much of what she said was in response to my question—and I use that term loosely because, in what I heard, she did not respond to the question. My question is a very simple question. The question, obviously, needs to be asked and, hopefully, at some point someone will answer me. That is, what will be the position of innocence if, in the performance of this procedure where the baby is delivered feet first, this birth canal, the entire baby's arms and legs, torso, are outside of the mother's womb completely, arms and legs moving outside the mother, all that is left in is the head, that is, when this procedure is performed and the baby is then killed, what if—which is not unknown from what I understand—if, for some reason, when the shoulders were delivered the head were accidentally delivered, will the mother and the physician then have a right to choose whether that baby lives or not? Or, would they be responsible—would the physician have to do something to keep the baby alive, since it is now completely outside the mother?

I understand the Senator from California went in, started talking about when the procedure should be used, and certain facilities, and all the things that could happen as a result of not using this procedure, talked about Roe versus Wade, but did not answer the question as to whether it was still the woman's right to choose at that point. Since she wanted to have the abortion, whether it would still be the woman's right to terminate that pregnancy? She defends the procedure, but she does not answer the question, and I will ask that question again, as I will be on the floor for some time. I will ask that question again of the Senator from California or anybody else who wants to defend this procedure being used on a 24-week-old or 30-week-old baby.

The Senator from California talked about this procedure as medically necessary to stop—to prohibit infertility or if it is more dangerous because it could cause paralysis, and all of these medical-health reasons why this procedure should be performed. Let me read to you some information from a group of physicians. They call themselves FACT, Physicians Ad Hoc Coalition for Truth.

The first quote is from a doctor, Nancy Romer, chairman of obstetrics and gynecology at Miami Valley Hospital, in Ohio. People deserve to know, ''partial-birth abortion is never medically indicated to protect a woman's health or her fertility.''

''Never medically indicated.'' The Senator from California talked about how the American College of Obstetricians and Gynecologists support this procedure. You hear this often, how ACOG, which is how they go, American College of Obstetricians and Gynecologists, have come out in opposition to the bill and support partial-birth abortions. That is only half true.

They have opposed this bill. I will read to you the letter. I have a copy of the letter sent to the Speaker of the House dated last week:

> DEAR MR. SPEAKER: The American College of Obstetricians and Gynecologists, an organization representing more than 37,000 physicians dedicated to improving women's health care, does not support H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may not perform, H.R. 1833 employs terminology that is not even recognized in the medical community—demonstrating why Congressional opinion should never be substituted for professional medical judgment. For these reasons we urge to you oppose the veto override. . . .

They do not support this procedure. What is very clear in this letter, to me, and I think to everyone who reads it, is they do not like having procedures criminalized. They do not want any doctor procedure criminalized. They want the doctor, basically, to have the say what kind of procedures they perform, if any.

I would ask the American College of Obstetricians and Gynecologists—and they will give me an answer. I guarantee you, in fact we will write them a letter today and fax it over: If this procedure was done and the baby's head slipped out, would the obstetrician be allowed to kill the baby?

If they would be so kind as to respond to that I will send the letter, if necessary. But I would suspect the answer would be pretty clear: No. No.

I do not know if we will get that answer from anybody on the other side.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I thank the Chair.

Mr. President, let me return to the issue of partial-birth abortion. I would like to respond to a comment that was made about an hour ago, I guess, by my colleague from California, Senator BOXER. She is certainly very eloquent. She and I have debated this issue before, and I suspect we will be debating it again.

She made a statement to the effect that we have heard from the men, we have heard men come down to the floor, we have heard from the men, now let's hear from the women. Mr. President, there are many women in this country adamantly opposed to partial-birth abortions. I have received in my office over 90,000 postcards and letters from people in Ohio. That does not include the thousands of calls that we have received. By looking at some of these postcards, it is clear that a large number of these individuals are women who are writing about this issue.

But let's talk about three specific people, three women, three women who are professionals, who are experts, who have, I think, something really to say about this issue.

Let me first start with Brenda Shafer. Brenda Shafer described herself as pro-choice. She is working as a nurse in Dayton, OH. I am going to read very briefly from the testimony that she gave to the Judiciary Committee on November 17, 1995. She is describing at this point, Mr. President, in her testimony how she came to work in Dr. Haskell's office. This is what she said:

> So, because of strong pro-choice views that I held at that time, I thought this assignment would be no problem for me. But I was wrong. I stood at the doctor's side as he performed the partial-birth abortion procedure, and what I saw is branded on my mind forever.

Then she describes what she saw:

> The baby's little fingers were clasping and unclasping, and his little feet were kicking. Then the doctor stuck the scissors in the back of his head and the baby's arms jerked out, like a startled reaction, like a flinch, like a baby does when he thinks he is going to fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby went completely limp. I was really completely unprepared for what I was seeing. I almost threw up as I watched Dr. Haskell doing these things.

Then she goes on:

> I've been a nurse for a long time, and I've seen a lot of death, people maimed in auto accidents, gunshot wounds, you name it. I've seen surgical procedures of every sort. But in all my professional years, I never witnessed anything like this.

Finally, she concluded:

> I will never be able to forget it. What I saw done to that little boy and to those other babies should not be allowed in this country. I hope that you will pass the Partial-Birth Abortion Ban Act.

Brenda Shafer described herself as pro-choice. She knew she was walking into a clinic where abortions were done. That is what they did. That is what she saw. That is what she described. No dispute about it. Dr. Haskell himself in the printed literature, articles he has written, describes, basically, the same procedure. That is Brenda Shafer.

The next woman I would like to reference and call the Senate's attention to and the testimony she gave to our committee is Dr. Pamela Smith. Dr. Pamela Smith is the director of medical education, department of obstetrics and gynecology, Mt. Sinai Medical Center, Chicago, IL.

In her testimony, she systematically described how this procedure is really not indicated, that it is not a medical procedure that is required. It does not really have to take place.

Let me read a portion of the testimony that she gave.

I ask unanimous consent, Mr. President, for 5 additional minutes.

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

Mr. DEWINE. Mr. President, here is what she says about the necessity of this procedure:

> I went around and described the procedure of partial-birth abortion to a number of physicians and lay persons who I knew to be pro-choice. They were horrified to learn that such a procedure was even legal.

Later on in her testimony she says the following. Again, this is Dr. Pamela Smith:

> Now, the cruelty to the baby is there for everyone to see, if you will acknowledge it. But I think that it is more difficult for people to recognize the risk to the mother that is associated with these procedures. I might also add that these risks have been acknowledged not only in standard medical literature, but by people who perform abortions as well.

Continuing her testimony, she concludes as follows:

> Enactment of this legislation is needed both to protect human offspring from being subjected to a brutal procedure and to safeguard the health of pregnant women in America.

This is just one of the witnesses that we heard who said this procedure is simply not indicated, it is not something that is accepted in the medical field. It is not something that medical journals recognize. It is not something that doctors believe is necessary. That was Dr. Pamela Smith.

Let me conclude with a third individual, and that is Dr. Nancy Romer, a medical doctor. She is a clinical professor, ob-gyn, Wright State University, chairman of the department. This is her quote:

> This procedure is currently not an accepted medical procedure. A search of medical literature reveals no mention of this procedure, and there is no critically evaluated or peer review journal that describes this procedure. There is currently also no peer review or accountability of this procedure. It is currently being performed by a physician with no obstetric training in an outpatient facility behind closed doors and no peer review.

Again, only one of several witnesses who testified that this is really not an accepted medical procedure at all.

Mr. President, I will be commenting further about this issue later on in the debate.

Let me conclude by saying what we are really about today, tomorrow and Thursday when we vote on this matter when we determine whether or not there are enough votes in this Senate to do what the House did, and that is override the President's veto, a veto that I believe was very misguided. The issue really is about what kind of a people we are and what we will tolerate, what we will turn our back to, what we will turn our head on and what we will say is OK: ''I wouldn't do it, I don't like it, but I'm not going to do anything about it.''

I think we really define who we are as a people, what kind of a people we are in this debate, because, Mr. President, if this procedure can be accepted, can be allowed in this country, I think virtually anything can be allowed.

My colleague from Pennsylvania, who has been very eloquent in this matter, and other colleagues have referred to the fact that this child—there is nothing else to call it, a child—is within seconds of being born, is within inches of being born. It is almost all the way out when that child is killed in the manner described by Nurse Shafer, and that if this procedure—and I think that almost debases the English language by calling it a ''procedure,'' it is such a sterile word—is allowed to continue in this country, there is literally no limit to what we will tolerate, what we will turn our back on, what we will say: ''We don't like it, but we will put up with it.''

So I think we really do in this debate define what we are as a people, what we care about, what is important to us and what is not important to us. I yield the floor, Mr. President.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President. I thank my colleague from Ohio for his statement and for the tremendous amount of work he has done on this issue from the committee level through passage in the Senate, and here he is back again.

I can tell you that those of us who have spoken on this issue do not relish the opportunity to do so. It is a very difficult issue. It is a very tough issue to talk about. And Senator DEWINE has eight children. I have three children. My wife and I are expecting our fourth in March. We know how very serious this issue is. And we very much believe that in this case, on this issue, this is an issue of the life and death of a little baby. And we think it is important for us to stand up and say something about it.

Mr. President, I ask unanimous consent that I be given 20 minutes to speak on this issue.

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

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, what I was talking about a few minutes ago, Senator DEWINE highlighted. I just want to reinforce some of the evidence that has come forward throughout the process of the hearings and the debates in the House and Senate, but also new information that has been made available to us. I want to say again to Members who are thinking about this issue, who have possibly opposed this issue in the past, that there certainly is enough information that has come out since the original passage of this bill that would give any Member who truly does deliberate on this issue the opportunity to take another look and to gather all the facts.

I am going to read an article written by four obstetricians, two who the Senator from Ohio just referred to, Nancy Romer and Pamela Smith, but also Curtis Cook and Joseph DeCook. These are all obstetricians. They are members of an organization called PAHCT, which is, Physicians Ad Hoc Coalition for Truth. My understanding is that that group is now comprised of over 300 such physicians who share the opinion of this text that was printed on Thursday, September 19, in the Wall Street Journal.

The House of Representatives will vote in the next few days on whether to override President Clinton's veto of the Partial Birth Abortion Ban Act. The debate on the subject has been noisy and rancorous. You've heard from the activists. You've heard from the politicians. Now may we speak?

And speaking as obstetricians.

We are the physicians who, on a daily basis, treat pregnant women and their babies. And we can no longer remain silent while abortion activists, the media and even the president of the United States continue to repeat false medical claims about partial-birth abortion. The appalling lack of medical credibility on the side of those defending this procedure has forced us—for the first time on our professional careers—to leave the sidelines in order to provide some sorely needed facts in a debate that has been dominated by anecdote, emotion and media stunts.

Since the debate on this issue began, those whose real agenda is to keep all types of abortion legal—at any stage of pregnancy, for any reason—have waged what can only be called an orchestrated misinformation campaign.

First the National Abortion Federation and other pro-abortion groups claimed the procedure didn't exist. When a paper written by the doctor who invented the procedure was produced, abortion proponents changed their story, claiming the procedure was only done when a women's life was in danger. Then the same doctor, the nation's main practitioner of the technique, was caught-on tape-admitting that 80% of his partial-bath abortions were ''purely elective.''

Then there was the anesthesia myth. The American public was told that it wasn't the abortion that killed the baby, but the anesthesia administered to the mother before the procedure. This claim was immediately and thoroughly denounced by the American Society of Anesthesiologists, which called the claim ''entirely inaccurate.'' Yet Planned Parenthood and its allies continued to spread the myth, causing needless concern among our pregnant patients who heard the claims and were terrified that epidurals during labor, or anesthesia during needed surgeries, would kill their babies.

The lastest baseless statement was made by President Clinton himself when he said that if the mothers who opted for partial-birth abortions had delivered their children naturally, the women's bodies would have been ''eviscerated'' or ''ripped to shreds'' and they ''could never have another baby.''

That claim is totally and completely false. Contrary to what abortion activities would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility. It seems to have escaped anyone's attention that one of the five women who appeared at Mr. Clinton's veto ceremony had five miscarriages after her partial-birth abortion.

Consider the dangers inherent in partial-birth abortion, which usually occurs after the fifth month of pregnancy. A woman's cervix is forcibly dilated over several days, which risks creating an ''incompetent cervix,'' the leading cause of premature deliveries. it is also an invitation to infection, a major cause of infertility. The abortionist then reaches into the womb to pull a child feet first out of the mother (internal podalic version), but leaves the head inside. Under normal circumstances, physicians avoid breech births whenever possible; in this case, the doctor intentionally causes one—and risks tearing the uterus in the process. He then forces scissors through the base of the baby's skull—which remains lodged just within the birth canal. This is a partially ''blind'' procedure, done by feel, risking direct scissor injury to the uterus and laceration of the cervix or lower uterine segment, resulting in immediate and massive bleeding and the threat of shock or even death to the mother.

None of this risk is ever necessary for any reason. We and many other doctors across the U.S. regularly threat women whose unborn children suffer the same conditions as those cited by the women who appeared at Mr. Clinton's veto ceremony. Never is the partial-birth procedure necessary. Not for hydrocephaly (excessive cerebrospinal fluid in the head), not for polyhydramnios (an excess of amniotic fluid collecting in the women) and not for trisomy (genetic abnormalities characterized by an extra chromosome). Sometimes, as in the case of hydrocephaly, it is first necessary to drain some of the fluid from the baby's head. And in some cases, when vaginal delivery is not possible, a doctor performs a Caesarean section. But in no case is it necessary to partially deliver an infant through the vagina and then kill the infant.

How telling it is that although Mr. Clinton met with women who claimed to have needed partial-birth abortions on account of these conditions, he has flat-out refused to meet with women who delivered babies with these same conditions, with no damage whatsoever to their health or future fertility!

Former Surgeon General C. Everett Koop was recently asked whether he'd ever operated on children who had any of the disabilities described in this debate. Indeed he had. In fact, one of his patients—''with a huge omphalocele [a sac containing the baby's organs] much bigger than here head''—went on to become the head nurse in his intensive care unit many years later.

So he delivered this baby that had these organs outside the body. Not only was that repaired, but that woman went on to become the head nurse in his intensive care unit.

Mr. Koop's reaction to the president's veto? ''I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction'' on the matter, he said. Such a procedure, he added, cannot truthfully be called medically necessary for either the mother or—he scarcely need point out—for the baby.

Considering these medical realities, one can only conclude that the women who thought they underwent partial-birth abortions for ''medical'' reasons were tragically misled. And those who purport to speak for women don't seem to care.

So whom are you going to believe? The activist-extremists who refuse to allow a little truth to get in the way of their agenda? The politicians who benefit from the activists' political action committees? Or doctors who have the facts?

Mr. President, I would like to read from the American Medical News. This was an interview with C. Everett Koop. In fact, I read most of it. I ask unanimous consent that this be printed in the RECORD.

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

[From American Medical News, Aug. 19, 1996]

THE VIEW FROM MOUNT KOOP

(By Diane Gianelli and Christina Kent)

Q: Clinton just vetoed a bill to ban ''partial birth'' abortions, a late-term abortion technique that practitioners refer to as ''intact dilation and evacuation'' or ''dilation and extraction.'' In so doing, he cited several cases in which women were told these procedures were necessary to preserve their health and their ability to have future pregnancies. How would you characterize the claims being made in favor of the medical need for this procedure?

A: I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the late-term abortion as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to . . . partial birth abortions.

Q: In your practice as a pediatric surgeon, have you ever treated children with any of the disabilities cited in this debate? For example, have you operated on children born with organs outside of their bodies?

A: Oh, yes indeed. I've done that many times. The prognosis usually is good. There are two common ways that children are born with organs outside of their body. One is an omphalocele, where the organs are out but still contained in the sac composed of the tissues of the umbilical cord. I have been repairing those since 1946. The other is when the sac has ruptured. That makes it a little more difficult. I don't know what the national mortality would be, but certainly more than half of those babies survive after surgery.

Now every once a while, you have other peculiar things, such as the chest being wide open and the heart being outside the body. And I have even replaced hearts back in the body and had children grow to adulthood.

Q: And live normal lives?

A: Serving normal lives. In fact, the first child I ever did, with a huge omphalocele much bigger than her head, went on to develop well and become the head nurse in my intensive care unit many years later.

Mr. SANTORUM. Thank you, Mr. President.

I think it is important to realize again the new information that has come out. The information provided by

these physicians, the information provided by Mr. Cohen. And I have an article here by David Brown, published in the Washington Post, on September 17, just last week. This was the article that Mr. Cohen referred to in his column where he changed his mind. He changed his mind. Someone who is admittedly very pro-choice changed his mind on whether this procedure should be legal or not.

One of the reasons he changed his mind—the principal reason was as a result of Dr. Brown's article talking about ''Late Term Abortions, Who Gets Them and Why,'' which is the name of the article by David Brown. He talks about who gets them and why. He talks about Dr. Haskell from Ohio, who says, ''I'll be quite frank: most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent of the abortions are for genetic reasons. And the other 80 percent are purely elective.''

Elective means, according to David Brown, that the fetuses were normal, or that the pregnant woman was not seriously ill.

I ask unanimous consent this article by David Brown be printed in the RECORD.

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

[From the Washington Post, Sept. 17, 1996]

LATE TERM ABORTIONS

(By David Brown)

In a White House ceremony in April, President Clinton vetoed a bill outlawing a technique of abortion done only in the second half of pregnancy. Termed ''partial-birth abortion'' by the people who decry it, and ''intact dilation and evacuation'' by the people who perform it, the technique has become the latest lightning rod in the nation's stormy debate about abortion.

Standing next to the president when he announced the veto were five women who had undergone late-term abortions with the controversial technique because their fetuses had severe developmental defects.

The women, Clinton said, ''represent a small, but extremely vulnerable group . . . They all desperately wanted their children. They didn't want abortions. They made agonizing decisions only when it became clear their babies would not survive, their own lives, their health, and in some cases their capacity to have children in the future were in danger.''

Others have sketched similar pictures. The Planned Parenthood Federation of America called this procedure ''extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality.'' The National Abortion Federation, an abortion providers' organization, said that ''in the majority of cases'' where it is used, there is a ''severe fetal anomaly [birth defect].''

But it is not possible to speak with certainty about who undergoes ''intact D&E,'' as the ''partial-birth abortion'' is known in medicine. The federal government does not collect such information. Physicians do not have to report it to the state health departments. Researchers do not study the question or publish their findings in medical journals.

Interviews with doctors who use the procedure and public comments by others show that the situation is much more complex. These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not. Often they are young or poor. Some are victims of rape or incest.

Physicians who perform abortions beyond the first third of pregnancy say that use of intact D&E is quite rare. Just over 1 percent (about 17,000) of all abortions in this country occur after the 20th week of fetal development; it is after that point when the intact D&E procedure is sometimes used. Only a fraction are believed to be intact D&Es, the controversial method in which the fetus is pulled by the feet out of the uterus and the head is punctured so it can also pass through the cervix. What's more, very few doctors perform this surgery; interviews with abortion experts suggest that there are less than 20.

What follows are sketches of the experience of several physicians who perform the intact D&E procedure, as well as the experience of doctors who perform abortions on patients with advanced pregnancies using an alternative technique. Taken as a group, the descriptions and observations by these practitioners paint a more complete picture of who decides to end their pregnancy at an advanced stage, and why.

A QUESTION OF SAFETY

One of the better-known practitioners of intact D&E is Martin Haskell, an Ohio physician who in 1992 presented a ''how-to'' paper on the technique at a medical conference in Texas. The dissemination of this document to antiabortion activists set the stage for the current campaign to ban the technique.

Although Haskell declined to be interviewed for this article, in his 1992 paper he said he had performed ''over 700 of these procedures.'' Three years ago, American Medical News, a weekly publication of the American Medical Association, interviewed Haskell about his technique.

''I'll be quite frank most of my abortions are elective in that 20–24 week range,'' Haskell said, according to a transcript of the interview, which has circulated widely during the debate on the ''partial-birth abortion'' bill. ''In my particular case, probably 20 percent [of the abortions] are for genetic reasons. And the other 80 percent are purely elective.''

''Elective'' is not a medical term generally used with abortion, but it is often used in medicine to denote procedures that are not medically required. In this context, it appears to mean that the fetuses were normal or that the pregnant woman was not seriously ill.

The American Medical News reporter also asked Haskell ''whether or not the fetus was dead beforehand.'' The doctor answered: ''No it's not. No it's really not. A percentage are for various numbers of reasons. . . . In my case, I would think probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not.''

Also performing intact D&E abortions in Ohio is a 45-year-old physician named Martin Ruddock. Interviewed recently, he declined to estimate how many abortions he did each year, but said that only 5 to 10 percent were done in the later stages of pregnancy. Beyond the 18th or 19th week, Ruddock prefers to use the intact D&E technique.

He believes it is safer than its most common alternative, which is called ''dismemberment dilation and evacuation.'' In that procedure, the fetus is removed in pieces, generally limbs first. It requires that the surgeon exert a great deal of force on the fetus inside the uterus, and it often produces short, bony fragments that can damage a woman's reproductive organs. On rare occasions, ''dismemberment D&E'' also exposes a woman to fetal substance (primarily brain tissue) that can cause dangerous reactions.

''To minimize those problems is why the [intact] procedure was developed,'' Ruddock said.

In practice, however, he employs it only a third of the times he'd like to, he said. Often the position of the fetus, or some other variable, makes intact D&E impossible, and he uses dismemberment instead. However, whenever he uses the intact method, he first cuts the umbilical cord—a maneuver designed to make sure the fetus is dead before he punctures its skull.

''The fundamental argument [of the technique's opponents] is that the fetus is alive. And what I am saying is that in my practice that never happens,'' he said.

In 45 percent of the cases done beyond beyond 20 weeks of gestation, he said, the fetuses have obvious developmental abnormalities or the women carrying them have illnesses that are being made worse by the pregnancy. In the other 55 percent, however, the fetuses are normal.

Another practitioner, who did not want to be identified, is a physician in the New York area who is affiliated with several teaching institutions. He does about 750 in the second trimester of pregnancy. He uses intact D&E in ''well under a quarter'' of those, he said. About one-third are his private patients, and the rest are ones he sees at the teaching hospitals, where he instructs physicians in training.

This doctor said that the ''great majority'' of the private patients have medical reasons for their abortions: Either the fetus is abnormal or the pregnant woman's health is threatened by the pregnancy.

The nonprivate patients, however, are different. They tend to have lower incomes, and the fraction of them who have medical reasons for abortion ''is not nearly as high, [but] I can't quantify it,'' he said. In the cases in which there is no medical indication, the fetuses are usually normal.

A CALIFORNIA DOCTOR'S EXPERIENCE

The notion that intact D&E is done only in the third trimester—very late in the pregnancy, generally after 24 weeks—and only when the fetus has catastrophic defects, appears to have arisen from widespread publicity about the practice of a doctor in Los Angeles named James T. McMahon, who died last year. His specialty was the very late abortion of fetuses with severe developmental defects.

Patients came to him from across the United States and sometimes even from outside the country. All of the women who appear with Clinton at the veto ceremony had their abortions done by him.

McMahon used intact D&E extensively because after about the 26th week of gestation dismemberment of fetuses is extremely difficult, if not impossible.

In a letter written in 1993 to doctors who referred patients to him, he said that in 1991 he'd done 65 third-trimester abortions. All of these cases, he said, were ''nonelective.'' Of all the abortions done beyond 20 weeks, 80 percent were for that he termed ''therapeutic indications''—that is, medical reasons.

In documents submitted to the House subcommittee on the Constitution, McMahon provided a list of some of these reasons. He categorized 1,358 abortions he'd performed over the years, all of them done (his testimony suggested) on women at least 24 weeks pregnant.

Most of them were for extremely rare genetic defects.

The list contained a few slightly more common conditions including anencephaly

(lack of a brain) in 29 cases, spina bifida (open spinal column) in 28 cases and congenital heart disease in 31 cases. A few of the conditions on the list, however, are rarely fatal. Cleft lip, cited as the ''indication'' in 9 cases, is surgically correctable after birth, sometimes with permanent disability and sometimes without.

The maternal indications in McMahon's list were similarly varied. The severity of the illnesses can't be inferred, although many of the problems he gave are not commonly life-threatening. These included breathlessness on exertion, one case; electrolyte disturbance, one case; diabetes, five cases; and hyperemesis gravidarum (intractable vomiting during pregnancy), six cases. The two most common maternal indications were depression (39 cases) and sexual assault (19 cases).

Although the few other doctors who are known to use the intact D&E method refused to be interviewed, one overseas practitioner would. He is David Grundmann, a 49-year-old physician from Brisbane, Australia, who learned the technique from McMahon about five years ago during a visit to the United States.

Grundmann performs abortion up to 22 weeks of gestation and, like McMahon, treats patients who travel great distances for his services. He and his two partners do 60 to 100 intact D&E cases a year.

In an interview last week, he said that in about 15 percent of those cases, there is a severe defect of the fetus.

* * * * *

THE WOMEN AFFECTED

It's difficult to say how representative these five doctors are of the rest of the small fraternity of practitioners who perform intact D&E in the United States. Interviews with physicians who use other abortion techniques—generally dismemberment—may help indirectly illuminate why most late-term abortions, including intact D&E abortions, are done.

Warren Hern, a 57-year-old physician who practices in Boulder, Colo., has a master's degree in public health and a doctorate in anthropology. He is one of the few providers of late-stage abortions who publishes research on the topic in medical journals.

Hern performs between 1,500 and 2,000 abortions a year. About 500 are on women 20 to 25 weeks pregnant. Of those, about one-quarter involve abnormal fetuses. He does between 10 and 25 abortions each year on women more than 26 weeks pregnant, and all of them involve fetal abnormalities or serious maternal disease, he said.

''It is true that a significant proportion of the community is offended by any abortion after 26 weeks that is not medically indicated,'' he said. ''We practice medicine in a social context. So that is why I will not perform an abortion after 26 weeks just because a woman has decided she does not want to carry the pregnancy to term.''

Women seeking an abortion late in pregnancy ''are often young, frequently not married, and many have a child already, or more,'' said Steve Lichtenberg, a obstetrician-gynecologist in Chicago who does abortions up to 22 weeks of development. Many are poor, have not completed school or established themselves in the work force, he said, and are in excellent health.

* * * * *

''The number who volunteer that information is substantially smaller than the number who've actually been subjected to social or sexual violence.''

Herbert Wiskind is the administrator of the 19-bed Midtown Hospital in Atlanta, whose four doctors perform about 25 abortions a week on women at least 18 weeks pregnant. In his experience many of the late procedures occur simply because of denial.

''You have a young girl who becomes pregnant, someone 15 or 16 years old,'' he said. ''She doesn't know how to tell her parents or her boyfriend. So she puts herself on a diet and tries to deny she's pregnant.''

However, Wiskind said, some fetal defects aren't diagnosed until late in pregnancy for unavoidable reasons. Amniocentesis, one technique of fetal genetic screening is done between weeks 15 and 17 of pregnancy. Several weeks can then pass before test results are known, and when they indicate a problem it often takes a woman several more weeks to decide about abortion, he said. In addition, many deformities can only be diagnosed through sonograms and were not apparent until the midpoint of pregnancy or later.

Thomas J. Mullin does abortions through the 24th week of gestation, as calculated by sonographic measurement of the fetus's head. He practices in the New York area.

Of the procedures Mullin does in weeks 20 through 24, about one-third are for fetal abnormalities, he said. In about 10 percent of cases, the woman has an illness, such as severe diabetes or painful uterine fibroids, that is not necessarily life-threatening but is clearly made worse by pregnancy.

''The remainder of them are just errors,'' he said. ''Many are young patients—12 to 20 years old—who are not in touch with their reproductive system as well as they should be, so they get stuck later than they want in pregnancy. They get surprised, basically.''

Jaroslav Hulka, a professor of obstetrics and gynecology at the University of North Carolina, supervises a teaching program whose physicians do 250 to 300 abortions a year on women carrying fetuses between 13 and 22 weeks old.

''Ninety-five percent of those are normal—that's fair to say,'' he said. Occasionally, fetuses up to 24 weeks old are aborted if they have a condition incompatible with life. The physicians use the dismemberment technique—an arduous and potentially risky procedure.

''The technique that the Congress is concerned about [intact D&E] is a level of skill above this,'' Hulka said. ''They are doing what we're all supposed to do—namely, minimize the risk to the patient.''

Practitioners of the intact procedure argue that their method is the least traumatic among the many variants of dilation and evacuation abortions used and is not—as their critics claim—the most barbarous. In testimony submitted last year to a congressional subcommittee, the late James McMahon wrote:

''In a desired pregnancy, when the baby is damaged or the mother is at risk, the decision to abort may be intellectually obvious, but emotionally it is always a personal anguish of enormous proportions . . . For the physician who is willing to help the patient in this dilemma, choices are few. Intact D&E can often be the best among a short list of difficult options. . . . Dealing with the tragic situations that I confront daily makes me constantly aware that I can only limit the hurt by doing gentle surgery and giving sympathetic counsel.''

Mr. SANTORUM. Mr. Brown talks about the different reasons—and a lot of the reasons given by physicians are reasons that are not medical necessities. Dr. Markman from California, I believe, performed nine abortions on third-trimester abortions on babies. The fetal abnormality? Cleft palate.

Dr. Pamela Smith sums it up best in a letter written October 28, last year, to CHARLES CANADY, who carried this bill over in the House. The last paragraph:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience, ignoring the health risks of the mother. The health status of women in this country will thereby only be enhanced by the banning of this procedure.

I think Mr. Cohen and the doctors I will refer to later have hit the nail on the head on what is going on with this whole debate.

I came to the floor last year and spoke on this issue. It is the first time in 6 years as a Senator and Congressman that I had ever taken to the floor of either body and utter the word ''abortion.'' I am pro-life. I feel very strongly about that. But I have never felt moved before to stand up and do something about it until I saw this.

I thought eventually in this country if we go out, as I have tried to do and talk to people, and try to change hearts by talking to people, young people, and talk about abortion, talk about how it is a scourge on our country, and that 1.5 million of these are performed every year in this country. It is not a healthy thing for women who have them. It is certainly not a healthy thing for our society that so many are done. I thought if we just kept vigilant we would see what the President said he would like to see—that abortions are safe, legal, and rare.

To me, this bill and the President's veto of this bill showed me that the rhetoric—how appealing it is, that abortions be rare—is just rhetoric. You cannot, you cannot, in your heart want abortions to be rare and allow this to happen in this country. What are you saying? What are you saying to those young people who are home from school and maybe made the mistake of plopping on C–SPAN 2 for a few seconds and they hear someone stand up and say you can deliver a baby and you can kill it. What are you saying to people who actually have to deal with this issue, saying we can kill, not as Mr. Cohen says, a few weeks old inch-long embryo, but a fully formed viable baby, viable baby, inches away from that first breath. What kind of a message does that send? What kind of a country are we?

If we knew of a procedure that had dogs delivered and then we performed that procedure on puppies, do you know how many letters from animal rights activists we would be getting now—and some of the very same people who would argue to keep this legal would argue to ban the other. What does that say about us?

You have the President of the United States who works very hard in the language of his veto message to try to cast the debate in a different light, talking about issues that really are not

substantive here. I will read again and again until the cows come home, ''there is absolutely no obstetrical situation encountered in this situation which requires a partially delivered human fetus to be destroyed to preserve the health of the mother.'' Yet the President vetoed it. Why? To preserve the health of the mother. It does not happen that way.

We try to form the debate around things that people can feel comfortable with. This issue is an issue that a lot of people do not feel comfortable with. We do not like to talk about it. But we have to talk about this because we are defined not by what the President of the United States would like us to feel comfortable with, not by the language that we can hide behind and not think about, but by what goes on every day in this country.

A lot of folks in Washington would like us to be cast in what we say. What we say is what we really are. I think in our hearts we know what we do is what we really are.

I have a lot of faith in the U.S. Senate. I have a lot of faith in the people who sit here and serve here, that they will take that time and will gather that evidence and look at the United States of America and say in the greatest civilization known to man—will we allow this to happen here?

I believe, even though all the media reports says we will never override the President's veto here, we are way short—well, we may have been, but I truly believe that my colleagues will study this issue well, will take all the new information that is available and will look at where we are in America and what signal we are going to send to this generation and future generations of Americans about what we will become.

If this is not wrong, I do not know what wrong is. This is wrong, and I believe the U.S. Senate will stand up in the next few days and tell the American public, ''We heard you.'' Tell those babies we understand now we are not going to let this happen any more under our watch.

I see the Senator from California is here and I asked her a question. I will ask it again because she did not answer it the two times previously when I asked, so I will ask one more time.

A partial birth abortion is performed when a baby is delivered feet first, as the Senator from Ohio described, the baby is delivered feet first through the birth canal. Everything is delivered—arms, shoulders, torso, legs, all delivered outside of the womb, outside of the mother completely except for the head. As nurse Brenda Shafer said, ''A pair of curved scissors, surgical scissors, are then inserted into the base of the skull and the brains removed.''

My question to the Senator from California is, what would her position be if, when the shoulders were delivered, that accidentally the head was also delivered; would the woman and her doctor—and I hear so often it is the woman and her doctor's right to choose—would the woman and the doctor in that situation where the head is delivered and the baby is completely outside of the womb, would the doctor be permitted, then, to kill the baby?

I will be happy, then, to yield the floor and await her answer.

Mrs. BOXER. Mr. President, I know the Senator from Florida is here to talk on another matter. Could I ask unanimous consent that I be allowed to speak for 10 minutes, immediately followed by the Senator from Florida for 15 minutes?

The PRESIDING OFFICER. Is there objection?

Mr. DEWINE. Reserving the right to object, I would like to inquire as to the amount of time we have remaining. My understanding is we will go to a vote at 5 o'clock.

Is that our cutoff time?

Mrs. BOXER. I say to the Senator, if you would like me to add the Senator, following Senator GRAHAM, I am delighted.

Mr. DEWINE. I do not think I will object. I want to see where we are.

The PRESIDING OFFICER (Mr. THOMPSON). We were scheduled to resume the pending business at 4:30, with half an hour of debate and then a series of votes at 5 o'clock.

Granting the Senator's request would delay those times.

Mr. SANTORUM. If the Senator will withhold we will see what the situation is. We will be happy to accommodate the Senator from Florida if we can.

Mrs. BOXER. I renew my request. The Senator spoke for 20 minutes. I would like to speak for 10 minutes. I would be happy to make as part of that request that the Senator from Ohio follow.

Is the Senator objecting to my getting 10 minutes?

Mr. SANTORUM. We are scheduled to go to debate on the bill and votes at 5 o'clock. This unanimous consent would push that back, and because Members are scheduled later this evening, they do not want to do that. That is the problem.

Mrs. BOXER. In trying to accommodate everybody, it seems to me—it is 20 after 4. We go to the bill at 4:30. Then I would ask for the normal 5 minutes to see where we go.

I am going to try this, Mr. President: That we delay going to the bill by 7 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. The reason I have been rather insistent is that for many hours today my name has been mentioned on the floor perhaps not directly but ''the Senator from California.'' And every time I go back to do business with being ''the Senator from California'' I hear another misstatement on the floor and the repeated question about how I feel about perfectly healthy babies and a perfectly healthy birth being aborted.

Not one United States Senator who is pro-choice believes that there should be an abortion allowed on a perfectly healthy pregnancy in the late term. I repeat that again. It is my position certainly in the late term—this is in concert with Roe v. Wade—that these abortions not happen on a healthy baby. And I want to say to my friend when he keeps posing that, he has never given birth. I have had the honor and the privilege to do so twice. One of my babies was born in a breach fashion.

So when the Senator asks me how I feel about that, I get a little upset because the way I felt about that at the time was God help me have a healthy baby. And she was premature, and I prayed every minute of the way.

So I do not want anyone to come to this Senate floor—and I ask you, I plead with you, not to do this anymore—and talk about ''the Senator from California's position.''

I am a grandmother. It is the greatest thing that has ever happened to my husband and myself. I prayed for healthy babies, and, no, I do not support the abortion of a healthy pregnancy—not one Senator does—despite the fact that my colleague makes it sound as if we do.

We could walk hand in hand down this aisle of the U.S. Senate and pass a bill in 60 seconds that outlawed this procedure except for life of the mother and serious adverse health impact. We could be together. But instead we have to face a debate that no doubt will show up on 30-second commercials.

I know that my colleague referred to the President as Mr. Clinton. Mr. Clinton met with mothers who have this procedure. He said, ''Why didn't he meet with other people on the other side?'' He has talked about this issue. He has looked at this issue. He has come to the conclusion that he would definitely sign a bill that made that life and health exception.

I quote from his letter.

> I urge that you vote to uphold my veto of H.R. 1833. My views on this legislation have been widely misrepresented.

And I might say to the President, they are being misrepresented as we speak by Members on the other side of this issue.

He says:

> I am against late-term abortions, and have long opposed them except where necessary to protect the life or health of the mother. As Governor of Arkansas, I signed into law a bill that barred third-trimester abortions with an appropriate exception for life and health. And I would sign a bill to do the same thing at the Federal level, if it was presented to me.

So here you have a President who has indicated that he would sign a bill outlawing this procedure with an exception for life and health. But no. The other side does not want that. They would rather come down and demagog the issue.

If I might say, I hear about Mr. Cohen's article. Good for Mr. Cohen.

He has taken a lot of different positions on a lot of subjects.

How about listening to the women who have gone through this like Maureen? Maureen is a 30-year-old Catholic mother of two, and lives in Massachusetts. On February 17, 1994 Maureen and her husband were joyously awaiting birth of their second child. On that date when she was 5 months pregnant a sonogram determined that her daughter had no brain and was nonviable. Her doctor recommended termination of the pregnancy.

On February 18, 1994, a third-degree sonogram at New England Medical Center in Boston confirmed the diagnosis that the baby had no brain and was nonviable.

Maureen and her family sought counsel from their parish priest, Father Greg, who supported the decision to terminate the pregnancy.

Mr. President, may I have order.

The PRESIDING OFFICER. The Senate will come to order.

Mrs. BOXER. Maureen found out that her baby had no brain. She is a practicing Catholic, and she went to her priest, Father Greg. On the record he supported her decision to terminate the pregnancy.

They named their daughter Dahlia. She had a Catholic funeral and is buried at Otis Air Force Base in Cape Cod, MA.

And Senators in this Chamber want to insert themselves into that family, insert themselves into the dialog between her priest, her God, and her family?

President Clinton will sign a bill that outlaws this procedure with an exemption for life and health. Throughout this debate I will bring up example after example.

And I urge my colleagues. This is not about 30-second commercials. This is about the life of women.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mrs. BOXER. We will continue this debate, Mr. President.

I yield the floor.

Is it time now to go to the bill at hand?

The PRESIDING OFFICER. Under the previous order, it would be time to go to the bill.

Mr. SANTORUM. Mr. President, I ask unanimous consent for 5 minutes, and I would be happy to share that time, half and half.

Mrs. BOXER. If there is no objection, I save my 2½ minutes until after the Senator is finished.

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

Mr. SANTORUM. Mr. President, the Senator from California makes a point—again, it is a good one—that the President will sign the bill with the exception for the life and health of the mother. That is what the President said.

I have two amendments. One, the health of the mother exception has been consistently held even though it has been narrowly drawn by many State legislatures, the health of the mother exception has been interpreted by courts unanimously as being anything—financial health is the health of mother; social interaction, health of the mother; her age, health of the mother; maturity; emotional health; mental health; physical health. Yes. It is a limitation without limit. It is no limitation at all. And the Senator from California knows that. More importantly, the President of the United States knows that very well.

It is all how to frame the issue. It makes a lot of people feel comfortable that the President really does want to limit these things. It is only these serious health consequences, and that is reasonable until you understand that health consequences is not a limit on the procedure. It is not a limit on the procedure.

So to make a limitation that does not have a limit is just what I described before which is someone who wants to be judged by what they say to you that sounds so nice instead of what the reality of what their words would be which means partial-birth abortions would continue to go on in this country without limitation if we passed a bill that had a health limitation. That is not RICK SANTORUM, the Senator from Pennsylvania speaking. That is court after court after court after court interpreting language that you would believe would be rock solid. But with the judges it is not. So I would just say go ahead and continue to use it, as I am sure you will—that we could agree on this rhetoric. But I can guarantee you we cannot agree on this rhetoric. We cannot agree on a limitation that is a phony limitation; to a procedure that is infanticide and nothing more.

The second thing I would say is you have doctor after doctor who has written to us and said that this procedure is never medically necessary to save the life or health of the mother.

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

The Senator from California.

Mrs. BOXER. Thank you very much.

Mr. President, once more I want to put on the table what the Members of the U.S. Senate could agree to at any moment. We would say this procedure cannot be used unless the woman's life is at stake because there is no true life exception in this extreme bill before us, or to spare her serious adverse health consequences.

And let me just say to my colleague in all due respect—and as collegial as I can be in the moment here—if you are suggesting that anyone in this U.S. Senate is talking about financial health of the woman, let me just say it is an absolute outrage if you would think that is what we are talking about. We are talking about infertility for life. We are talking about paralysis. We are talking about bleeding to death.

Vikki Stella, mother of two, was in the third trimester of her pregnancy when she discovered her son was diagnosed with nine major anomalies, including a fluid-filled cranium with no brain tissue at all, compacted flattened vertebrae, and skeletal dysplasia. The doctor told her the baby would never live outside the womb. She said, ''The only option that would assure that my daughters would not grow up without a mother was a highly specialized, surgical abortion procedure developed for women with similar difficult conditions. Though we were distraught over losing our son, we knew the procedure was the right option . . . and as promised, the surgery preserved my fertility. Our darling son Nicholas was born in December 1995.''

Senators in this Chamber would stand up to this woman and tell her, ''Too bad, even though your doctor said it was necessary to have this procedure so you could have another child; too bad.''

You know, I will tell you something. For people who say they want to get Government out of the lives of the people, this is extraordinary to me. Let us leave these tragic situations to the mother, to the father, to the doctor, to the priest, to the rabbi, to God. Let us think seriously. If it was your wife, if it was your daughter, and the doctor looked in your eye and said, ''Your wife might die if I do not use this procedure,'' at that moment would you want him or her to use the procedure that would save that life?

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. BOXER. Thank you.

MARITIME SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the hour of 4:30 p.m. having arrived, the Senate will now resume consideration of H.R. 1350, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1350) to amend the Merchant Marine Act, 1936, to revitalize the United States-flag merchant marine, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Grassley amendment No. 5393, to clarify the term fair and reasonable compensation with respect to the transportation of a motor vehicle by a certain vessel.

Grassley amendment No. 5394, to prohibit the use of funds received as a payment or subsidy for lobbying or public education, and for making political contributions for the purpose of influencing an election.

Grassley amendment No. 5395, to provide that United States-flag vessels be called up before foreign flag vessels during any national emergency and to prohibit the delivery of military supplies to a combat zone by vessels that are not United States-flag vessels.

Inouye (for Harkin) amendment No. 5396 (to amendment No. 5393), to provide for payment by the Secretary of Transportation of certain ocean freight charges for Federal food or export assistance.

Mr. STEVENS. Mr. President, what is the parliamentary situation now with regard to time?

The PRESIDING OFFICER. There will now be 30 minutes debate, equally divided, on the rate issue, 15 minutes under the control of the Senator from Iowa [Mr. HARKIN] and 15 minutes under the control of the Senator from Iowa [Mr. GRASSLEY].

Mr. STEVENS. I think it was our intention that we would have 1 minute on each side; Senator INOUYE with regard to the Harkin amendment, and myself with regard to the Grassley amendment.

I ask unanimous consent that be the case. We have to have some time to move to table and make a comment.

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

Mr. STEVENS. The remainder of the amendments are likewise controlled?

The PRESIDING OFFICER. There is a series of amendments to be voted on in sequence.

Mr. STEVENS. It was my understanding the Senator from Iowa wishes to withdraw one of those amendments. I ask he be recognized for that purpose.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 5395 WITHDRAWN

Mr. GRASSLEY. Mr. President, I ask to withdraw amendment No. 5395. For my colleague from Iowa, this is not the amendment regarding which his amendment amends mine. I ask unanimous consent to withdraw No. 5395.

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

Amendment No. 5395 was withdrawn.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

Mr. HARKIN. I understand I am recognized for up to 15 minutes?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 5396 TO AMENDMENT NO. 5393

Mr. HARKIN. Mr. President, I have been generally supportive of the practice of shipping a certain percentage of our U.S. foreign food assistance on U.S.-flag ships. I have in the past supported amendments designed to reform that program to ensure the costs of using the U.S.-flag ships are reasonable. But I have not been supportive of proposals that would essentially kill the policy of using U.S.-flag vessels, because I believe that U.S. maritime fleet ships are important to our national defense.

I also believe that when we are providing largess to other countries, we should do all that we can to also support U.S. jobs and U.S. industries. After all, we make sure that U.S. farm commodities are used in these food shipments. We do not go to other countries to buy the food to give it away. We use our own farm commodities. As long as costs are fair and reasonable, I believe we ought to use U.S. ships to haul a share of this aid.

My colleague from Iowa, Senator GRASSLEY, says that I may be undercutting his efforts at reform. But my amendment is the only way to have real reform. What my amendment would do, is take any higher costs involved in using U.S.-flag ships out of USDA entirely and put it in the Department of Transportation.

Senator GRASSLEY's amendment would essentially kill our U.S. maritime industry by sending shipping business to foreign-flag vessels. If, for example, a foreign ship would haul cargo for $18 a ton, Senator GRASSLEY's amendment would give that business to a foreign-flag vessel if the U.S. ship was going to charge any more than $19.08 a ton. Is that the price at which we will sell out our U.S. maritime industry, which is so important to military sealift and military security, $1.08 a ton?

Or, if you are using container ships, if the lowest acceptable foreign rate, just to take a hypothetical example, is $1,000 a container, Senator GRASSLEY's amendment would cut out U.S. ships if their rate is any higher than $1,060 a container. So for $60 a container we would give all that business to a foreign country.

I do believe, however, that supporting our U.S. merchant marine is properly a transportation function, rather than an agricultural or food aid function. Any higher costs of using U.S.-flag ships should not come out of the food aid budget but should, instead, come out of the Department of Transportation budget.

I will also point out that the amendment of my colleague, Senator GRASSLEY, would still have any higher costs of U.S. ships coming from the agricultural food aid budget. I do not think that is right. I do not think that is real reform.

Let us be clear, there have been some gross exaggerations about the higher costs of U.S.-flag ships. But I admit freely there are some higher costs involved, because those U.S. ships must comply with more stringent environmental and safety regulations and because the people who work on them are U.S. citizens and they pay U.S. taxes. Those people who work on those ships pay Federal and State and local taxes. They have homes here in communities in our country. They pay property taxes. They support their local schools.

If you take the money paid for shipping food aid and give it to a foreign-flag vessel and to foreigners operating on those ships, they do not pay any taxes here, they do not support our local schools, they do not raise their kids in America.

All in all, the U.S. maritime industry runs a more responsible operation than flag-of-convenience operators that may sail under the flag of a foreign country with very lax standards. So our costs of operation are understandably higher.

In any event, then, there are some higher costs in using U.S.-flag ships. This is called the ocean freight differential. To the extent that USDA pays for this differential, there is some reduction in the amount of food aid that can be shipped. That is what I want to change. My amendment would simply shift all of any added costs of using U.S.-flag ships to the Department of Transportation. There is clear precedent for my amendment. In fact, it would build on a partial shift of cargo preference costs to the DOT that we began in 1985.

Prior to the 1985 farm bill, 50 percent of U.S.-sponsored food shipments were required to be transported on U.S.-flag ships. There was a court decision that held that this requirement applied to commercial sales as well as to food aid. So a compromise was reached in the 1985 farm bill under which 75 percent of food aid—that is the donations and concessional sales of food that we give to people overseas—would be transported on U.S.-flag ships, but that commercial agricultural exports would be totally exempt from any cargo preference requirement, even if those sales were supported by U.S. export subsidies or assistance. So, today, less than 2 percent of our total agricultural exports are required to be transported on U.S.-flag ships. No commercial sales are under the requirement at all.

Part of that compromise that we reached in 1985 was that the Department of Transportation would reimburse the Department of Agriculture, for any increase in food aid shipping costs caused by that change in the cargo preference requirement from 50 percent to 75 percent. So, already the Department of Transportation covers a portion of any higher charges for shipping food aid on U.S.-flag vessels.

What my amendment would do is shift all cargo preference cost over. The Department of Transportation would reimburse the Department of Agriculture for all food aid shipping charges to the extent they exceed prevailing world shipping rates. My amendment employs the same reimbursement mechanism now used by the Department of Transportation to reimburse the Department of Agriculture for a portion of those costs. So my amendment will put the costs of supporting our U.S.-flag merchant marine—which I believe is vitally important to this country—where it belongs, in the Department of Transportation, not the Department of Agriculture.

As I said, I have always believed, and still do, that it is important to support our U.S.-flag merchant marine as a matter of national security. Also, because shipping is an important basic U.S. industry, with U.S. jobs at stake, employing U.S. citizens, people who work and raise their families here and pay their taxes in this country, I believe it is important to have a U.S. merchant fleet.

We cannot afford to send any more U.S. jobs out of this country. The Grassley amendment would do that. It would turn over everything to foreign vessels flying a flag of convenience. But that support, I say, that we should provide for our U.S. merchant marine should not diminish the quantity of agricultural commodities that USDA can ship as food aid. If we are going to give food to hungry people and starving people around the world—which we ought

to do—to the extent that it costs us more to ship it on U.S.-flag vessels, that money should not come out of the food aid budget, it ought to come out of our transportation budget.

I tried to offer this amendment several years ago, in 1990. It was tabled. Again, I recall my colleague from Iowa moved to table the underlying amendment and brought down that amendment, too. Unfortunately, the debate over cargo preference has pitted agricultural interests against maritime interests. That is too bad. In order to meet the stiff challenges from overseas competition in the trade arena, we need more cooperation, not antagonism among our basic American industries.

I am proud to represent an agricultural State. I am proud of how much we sell overseas. I am also proud of how much food the citizens of Iowa donate every year abroad. I am also proud of the men and women who go to sea in ships. Perhaps it is because of my military background. Maybe it is because I spent so much time in the Navy. But I know what a lonesome life it can be, and I know how hard they work, and I know how they sacrifice and give up a lot of time from their families. I also know when our country calls on that merchant fleet to ship military cargoes to a foreign country, in dangerous waters, they must respond.

Now, if it is a foreign-flag vessel, we cannot call on it to sail into dangerous areas for military purposes. They can simply say no, we are not going to ship your cargo because we believe it is too dangerous. So that is why I maintain my strong support for a strong U.S.-flag merchant fleet. And I believe as deeply as I believe anything that the funding to support our U.S.-flag merchant fleet should come out of the transportation budget, and I will continue to fight for that.

That is all my amendment does. Again, I hope that we don't have to have this antagonism between agriculture and the maritime industry. It shouldn't be there. We ought to be working together. We ought to be working together for the benefit of more jobs in the U.S., for the benefit of a stronger agriculture in the U.S. and, yes, working together to make sure that out of our generosity we give the maximum amount of food aid that we can give to starving people around the world.

I believe my amendment will resolve a nettlesome issue that has fostered conflict between agriculture and the maritime industry for a long time. My amendment will allow USDA to ship more food aid and to purchase more farm commodities for that purpose. And, yes, it will support a strong maritime industry. I urge my colleagues to support my amendment.

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

The PRESIDING OFFICER. Four minutes 50 seconds.

Mr. HARKIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The senior Senator from Iowa.

Mr. GRASSLEY. I yield myself 10 minutes.

Mr. President, everyday, millions of Americans get up, they have their breakfast, they pack their lunches, they send their kids off to school. In many households, over a majority, both spouses work. These are the forgotten Americans, the people who go to work every day. They are working harder and harder and taking home less and less money. Nobody is talking on this bill about that portion of America. That is the America we should be concerned about.

So I use that to remind all of my colleagues, Republicans and Democrats, that we are about to vote to create a new subsidy program, a corporate welfare subsidy program. I say to my Democratic colleagues—all of them—how many times do I hear you say that we should end corporate welfare? This is an opportunity to do that, by not voting for this bill and creating a new welfare program.

I say to my Republican colleagues who, in the tax bill last year, thought it was so necessary to respond to the people's will to eliminate corporate welfare, that we had in our tax bill probably $25 billion of reduction in corporate welfare that is done through the Tax Code of the United States.

So I say to my Republican colleagues, you have an opportunity to have one less corporate welfare program on the books by not voting for this bill.

In the meantime, we have some amendments. We are about to cast votes on two of them that I have sponsored and one that Senator HARKIN sponsors, a second-degree amendment, and I strongly oppose his amendment.

In a few short minutes, I am going to attempt to help my colleagues separate fact from fiction. What I share with my colleagues is not just my opinion. It is either backed by independent sources or is the learned conclusion of those who have spent a great deal of time studying the questions of maritime subsidies.

First, let me direct the attention of my colleagues to two lead editorials that were included in today's Wall Street Journal on the one hand and today's Journal of Commerce on the other, and I placed copies on your desks. Both the Wall Street Journal and the Journal of Commerce expressed strong opposition to the subsidy bill before the Senate. Remember, these are opinions of journals that are the voices of business and transportation. They oppose this corporate welfare proposal.

My colleagues should also know that the Citizens for a Sound Economy, a grassroots organization representing hundreds of thousands of Americans, are key voting my fair and reasonable rate amendment and my antilobbying amendment. Those key votes are used for their Jefferson award.

We also have Citizens Against Government Waste backing my amendments and key voting those as well.

We have the National Taxpayers Union using these amendments for their annual vote analysis.

These groups, as well as Americans for Tax Reform, all oppose this underlying legislation, which is a $1 billion corporate welfare subsidy bill.

Does our national defense, as is purported by the managers of this bill, depend upon the 47 U.S.-flag vessels that are asking for a $100 million subsidy per year? A former Bush administration official, Assistant Secretary of Defense Colin McMillan, said the answer to that question is ''No.'' He said that the issue of U.S. carriers reflagging is not a national security issue and, therefore, should be viewed in terms of economics. That is an Assistant Secretary in the last Republican administration.

Then on the other side of the aisle, most recently Cabinet heads in the Clinton administration studied this issue and made recommendations to the President on whether or not to continue subsidies. Every Senator had in his office last week a copy of the Rubin memo to President Clinton. Again, these are conclusions based upon President Clinton's Cabinet officials, their conclusions by Democratic officials, and they are not my conclusions. They said it amounts to a jobs bill to pay for high-price seafarers. Those are the conclusions from that memo.

Mr. President, as I stated last week, a number of retired admirals who earlier lent their names to an American Security Council letter endorsing this legislation—now that they have the benefit of the Rubin-Clinton memo—support my amendments to this bill and, in fact, believe further hearings should have been held before we pass such legislation. Again, those are retired admirals, not this Senator from Iowa.

To my colleague from Iowa, for his amendment and my opinion on that amendment—I suppose I gave that opinion last week, but I owe it to my colleague to state here now for a short period of time, my position.

My colleague from Iowa said that he doesn't want to sell out our merchant marines. Nobody wants to do that, but I think there is a bigger issue here, and that bigger issue is whether or not, with this corporate welfare subsidy, we will be in the process of selling out the taxpayers.

Our No. 1 responsibility is to the taxpayers of America. If my colleague from Iowa succeeds in substituting his amendment for mine, all that will be accomplished is that taxpayers will continue to get ripped off so maritime union welfare and corporate welfare will continue to be shoveled out with no restraint. And farmers, who are taxpayers as well, will not be able to ship one extra bushel of food overseas.

Taxpayers get ripped off either way. They get ripped off if the Agriculture

Department pays for cargo preference or if the Transportation Department pays for it. The end result is the same. So I strongly oppose his amendment.

Mr. President, why do we need to adopt, then, my amendment that calls for a fair and reasonable compensation? Fair and reasonable. Who can argue with that?

That supposedly is the rationale now for all of these rates, but the bottom line of it is that the maritime industry defines what is fair and reasonable. If we don't adopt this amendment, then these subsidized carriers will collect $100 million per year from this bill and then routinely gouge taxpayers to the tune of $600 million per year.

This figure of $600 million per year is established by the Federal agencies and by the Office of Management and Budget. It is reported every year in the President's budget, and I placed a copy of this information in last Friday's RECORD.

Again, $600 million in backdoor cargo preference subsidies is not CHUCK GRASSLEY's estimate, it is the actual figures provided by the Office of Management and Budget.

If we protect taxpayers from price gouging under Buy America laws, then why shouldn't we do likewise under cargo preference laws?

So my amendment then, does that. It takes the Buy America market test of 6 percent and, like Buy America, says that if a Government agency is charged by a U.S.-flag carrier more than 6 percent what the market bears or, in other words, what a foreign flag might offer, then that agency can hire the foreign flag.

For years, we have been assured that taxpayers are protected by existing law that states a bid has to be a fair and reasonable rate, but Congress never defined this term and, instead, left it to the Maritime Administration, which cares not for the taxpayers.

If you can have the U.S. flags charge 400 percent over a foreign flag bid, the Maritime Administration may state that this is a fair and reasonable bid and that agency has to accept that bid. It has happened.

The PRESIDING OFFICER (Mr. GORTON). The Senator has used the original 10 minutes.

Mr. GRASSLEY. How much time does the Senator from Colorado want?

Mr. BROWN. I would like at least 2 minutes.

Mr. GRASSLEY. I will yield myself 1 minute, and then when I sit down, I will yield the remainder of my time to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I remind everybody who says that this is necessary for our national defense, to remember that U.S. News & World Report article in 1990 entitled ''Unpatriotic Profits.'' It reported how the Navy was being forced to pay U.S.-flag carriers $70,000 to ship what could have gone on foreign flags for just $6,000.

This was during the Persian Gulf war. It was because our cargo preference laws are out of control. My amendment will take care of this.

If my amendment does not pass, we will see the same abuses the next war that we face. Nothing in this bill defines fair and reasonable rates. My amendment does define what is fair and reasonable in the very same way we have defined it in the Buy America. I yield the rest of my time to the Senator from Colorado.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I hope Members, as they vote on this measure, will keep a couple of things in mind that I think are critical. One is this measure does not attempt to do away with the buy-America preferences that have existed in the law. It keeps those. What it does do, Mr. President, is define what fair and reasonable is.

In the past, literally, the Department of Transportation has looked at rates that have been 100 percent, 200 percent, 300 percent, 400 percent above what is available on the market and called those reasonable and fair. Mr. President, that is simply ludicrous. Charging double or triple what your competitor charges is not reasonable and fair. We do not kid anyone when we allow that sort of thing to go ahead. It is a scandal on the American taxpayers to have them stuck for two and three and four times as much what reasonable rates are.

The second point I hope Members will look at is this: One of the good arguments that have been made for those who defend the existing system is that, on occasion, what they are comparing is apples and oranges; that is, the higher rates that have been talked about at times—not always, but at times—sometimes have been in circumstances where you could not unload the cargo and it was not an apples-to-apples comparison.

The Grassley amendment, very importantly, is defined in such a way so that it allows the Secretary to take into consideration those other conditions that may exist. In other words, the Grassley amendment is an apples-to-apples comparison. It is a fair comparison. It is not an unreasonable comparison. It meets directly the arguments in opposition that the opponents of these measures in the past have made.

Mr. President, I simply close with this thought. How can we say to the taxpayers of this country that we are looking out for their interests when we allow them to get stuck for two and three times as much as what the real rate is on these kinds of cargoes? I yield the floor, Mr. President, and urge the adoption of the Grassley amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. Four minutes forty-eight seconds.

Mr. HARKIN. Four minutes forty-eight seconds?

The PRESIDING OFFICER. Yes.

Mr. HARKIN. Mr. President, again, I would just point out under the amendment of my colleague from Iowa, money that would go to pay for the ocean freight differential would still come out of the Agriculture budget, out of food aid. That is what I am basically opposed to, having it come out of Agriculture. It is a 6-percent limitation that my colleague has in his amendment, but any higher costs of U.S.-flag ships would still come out of Agriculture. I do not think it ought to. I think the money for the ocean freight differential ought to come out of the Department of Transportation. That is what my amendment does.

Again, I hear all of these comparisons of shipping rates. My friend from Colorado, and of course my esteemed colleague from Iowa, have all these comparisons, but these are based on artificially low foreign rates subsidized by foreign governments, or rates for ships that operate without having to comply with the operating standards that apply to U.S.-flag vessels. So these kinds of comparisons may seem appealing, but they do not reflect a fair or accurate representation of the factors involved in the rates charged by U.S. ships.

For example, our people are paid higher wages, our ships have to follow stronger and stricter environmental standards and our ships have to meet stricter working conditions and occupational health and safety requirements. None of these considerations is taken into account by the amendment of my colleague from Iowa. I keep pointing out that workers on U.S.-flag ships, U.S. citizens, pay Federal, State and local taxes. In fact, I am informed that existing Federal and State income tax requirements alone nearly double the cost of U.S.-citizen crews to U.S.-flag operators. Well, where do they pay those taxes? They pay those taxes here in America.

Mr. President, let me also point out that there currently are limitations in place on the rates that U.S.-flag vessels may charge for hauling cargo preference shipments. For non-defense cargoes, for example, by law preference is given to U.S.-flag vessels only when such vessels are available at ''fair and reasonable rates,'' which are determined by an OMB-approved method based on detailed cost information submitted by American flagship operators. If U.S.-flag vessels are not available at fair and reasonable rates, they are not awarded the cargo, and foreign vessels may be used.

In summary, I again point out that what my amendment seeks to do is to shift any higher costs of using U.S.-flag ships out of Agriculture to the Department of Transportation where it rightly belongs. I do, however, strongly support keeping U.S. jobs here in this

country. I strongly support making sure that we support a maritime industry in this country and make sure it is there for us when we need it in periods of national emergency. I ask support for my amendment to shift those costs to DOT. I yield the floor and the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Iowa yield back his time?

Mr. GRASSLEY. How much do I have?

The PRESIDING OFFICER. One minute twenty-three seconds.

Mr. GRASSLEY. Yes. I yield back.

The PRESIDING OFFICER. Under the previous order, there is 1 minute now reserved for the Senator from Hawaii and 1 minute for the Senator from Alaska.

Mr. INOUYE. Mr. President, in June 1992 the Journal of Commerce had an editorial in support of this program, this bill. In March 1994, a much stronger editorial was found in the Journal of Commerce supporting this measure before us. In 1995, the Journal of Commerce was purchased by the Economist, a British publication, and now in 1996 we find that the Journal of Commerce is opposed to this measure before us.

Mr. President, I ask unanimous consent that a letter dated May 2, 1996, from Assistant Secretary of the Navy John W. Douglass supporting this measure be printed in the RECORD.

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

THE ASSISTANT SECRETARY OF THE NAVY, RESEARCH DEVELOPMENT AND ACQUISITION,
Washington DC, May 2, 1996.

Hon. TRENT LOTT,
Seapower Subcommittee, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: During the recent Senate Armed Services Committee Seapower Subcommittee hearing on Navy Surface Ship Programs, you requested a review from the Navy on the pending Maritime Reform and Security Act legislation. I have reviewed this bill, and strongly support the establishment of an active fleet of militarily useful, privately owned, U.S.-flagged vessels for our nation's defense, and provisions that strengthen our vital U.S. maritime industrial base and Merchant Marine.

This bill is important in helping the U.S. maintain a strong and responsive defense posture. Through the Emergency Preparedness Program, the Navy will have access to vessels during times of war or national emergency thereby enhancing the readiness of our seagoing forces.

I also view the Maritime Reform and Security Act as important legislation in supporting U.S. shipbuilders. First, the bill's preference for including U.S.-built ships and the requirement to notify U.S. shipbuilders of the intent to contract for new construction work should help to promote the stability of shipbuilders supporting the Navy. Second, the vessel eligibility provision setting limits on the age of vessels in the fleet will contribute to new construction orders and maintain a younger, safer fleet. Third, the bill's provisions that facilitate use of Title XI loan guarantees is also important to U.S. shipbuilders.

It is paramount that U.S. shipbuilders capture a share of the world shipbuilding market to help sustain the viability of this important industry for the Navy's future and to benefit the Navy by reducing new construction costs. The success of U.S. shipbuilders in commercial markets is inextricably linked to programs such as Title XI.

I appreciate the opportunity to provide you with comments on this imporant maritime legislation. A similar letter has been sent, as a courtesy, to Senator Pressler, Chairman of the Committee on Commerce, Science, and Transportation. As always, if I can be of any further assistance, please let me know.

Sincerely,

JOHN W. DOUGLASS.

Mr. INOUYE. Mr. President, I also ask unanimous consent that a letter dated April 9, 1996, from Deputy Secretary of Defense John White, supporting this measure be printed in the RECORD, along with a letter from the Secretary of Transportation, the Hon. Federico Peña, supporting this measure.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, April 9, 1996.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Senate may consider H.R. 1350, the Maritime Security Act, in the very near future. I want to dispel any questions or concerns about the position of the Department of Defense with respect to this legislation. The Department of Defense supports fully H.R. 1350. the establishment of a Maritime Security Force, particularly, will greatly enhance the maintenance of an adequate sealift capability.

Thank you for the opportunity to comment.

Sincerely,

JOHN WHITE.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, September 23, 1996.

Hon. DANIEL K. INOUYE
U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: At your request, I am writing to present the Administration views on Senator Charles E. Grassley's amendments to H.R. 1350, the Maritime Security Act of 1995. The Administration strongly supports Senate passage of H.R. 1350 without amendment when the Senate votes on this bill on September 24, 1996. Early enactment of this legislation is important to national security. The Administration takes no position on the merits of these amendments at this time.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this report.

Sincerely,

FEDERICO PEÑA.

Mr. INOUYE. Mr. President, although the Harkin measure has much merit, I must advise my colleagues that we have not had a hearing on this measure. If that amendment is made part of the bill, I feel that at this lateness it might be the death knell of the measure. So I move to table.

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

The PRESIDING OFFICER. Does the Senator from Alaska yield his time?

Mr. STEVENS. No. I was asking for the yeas and nays on the motion of the Senator from Hawaii to table.

The PRESIDING OFFICER. A motion to table is not debatable. It is not in order at this point until the Senator from Alaska has used or yielded his time. The motion to table is not in order until the Senator from Alaska has used or yielded his time.

Mr. STEVENS. That was not the understanding at the time we were going to make it. We are going to have one vote on Senator HARKIN's amendment and then a separate vote on this one. We were going to make the motion to table and vote. However the Chair wishes to do it—go back and read the RECORD—that is not the understanding. In any event, I will take my minute on the Grassley amendment, not the Harkin amendment, so we understand.

The PRESIDING OFFICER. The Senator is recognized.

Mr. STEVENS. This amendment would affect the rates for carriers of all Government cargoes, not just the rates set for cargo preference on agricultural cargoes. I remind my friends from Iowa, both of them, that we put $10 billion into agricultural subsidies a year. We are talking about here in this bill reducing the cost of keeping this merchant marine available for our Department of Defense from $200 million a year to $100 million. For 10 years we will get it to $100 million.

Senator GRASSLEY's plan is unnecessary. Existing law already allows the military use of foreign-flag vessels if the U.S. carriers' rates are excessive or otherwise unreasonable or if they are higher than the charges for transporting like goods for private persons.

In terms of cargo preference, the law already provides the rates must be fair and reasonable for cargo preference. As I stated Friday, this amendment will result in the loss of the majority of the U.S.-flag fleet. We need that for national defense.

I point out that during the Persian Gulf war, the charge for the foreign ships averaged $174 per short ton and for the domestic fleet it averaged $122 per short ton. We are preserving a merchant marine fleet for our defense purposes.

I move to table the Senator's amendment.

Mr. INOUYE. Mr. President, I move to table the Harkin amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Harkin amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

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

The result was announced—yeas 89, nays 9, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—89

Abraham	Frist	McCain
Akaka	Glenn	McConnell
Ashcroft	Gorton	Mikulski
Bennett	Graham	Moseley-Braun
Biden	Gramm	Moynihan
Bingaman	Grams	Murkowski
Bond	Grassley	Murray
Boxer	Gregg	Nickles
Bradley	Hatch	Nunn
Breaux	Hatfield	Pell
Bryan	Helms	Pressler
Burns	Hollings	Pryor
Byrd	Hutchison	Reid
Chafee	Inhofe	Robb
Coats	Inouye	Rockefeller
Cochran	Jeffords	Roth
Cohen	Johnston	Santorum
Coverdell	Kassebaum	Sarbanes
Craig	Kempthorne	Shelby
D'Amato	Kennedy	Simpson
Daschle	Kerry	Smith
DeWine	Kohl	Snowe
Dodd	Kyl	Specter
Domenici	Lautenberg	Stevens
Exon	Leahy	Thomas
Faircloth	Levin	Thompson
Feingold	Lieberman	Thurmond
Feinstein	Lott	Warner
Ford	Lugar	Wyden
Frahm	Mack	

NAYS—9

Baucus	Conrad	Kerrey
Brown	Dorgan	Simon
Bumpers	Harkin	Wellstone

NOT VOTING—2

Campbell	Heflin

The motion to lay on the table the amendment (No. 5396) was agreed to.

TRIBUTE TO SENATOR SIMON

Mr. DASCHLE. Mr. President, to say that the senior Senator from Illinois, Senator SIMON, has influenced us all is an understatement. Our dress today is a recognition of his influence on all of us and our great admiration for him personally.

I would like to announce that following the vote many of us will participate in a tribute to Senator SIMON. I invite all of our colleagues to join Senator MOSELEY-BRAUN, Senator MACK, and many of us in that tribute. We will not do it now. We will do it later. In the meantime, we will all enjoy wearing these great bow ties.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. KYL. Mr. President, I rise to support the amendments being offered by Senator GRASSLEY and to express my concerns about this bill. Members of the 104th Congress have tried their best to eliminate pork-barrel spending and corporate welfare. I believe we have made some progress, but clearly, as this bill demonstrates, we have a long way to go.

I support the amendments offered by my colleague from Iowa because this bill is nothing more than a taxpayer subsidy. It authorizes $100 million per year for the maritime fleet to provide sealift capacity in times of national emergency. Each vessel in the program would receive $2.1 million per year for being enrolled in the program. This does not include the additional moneys that may be paid in times of war. The CBO estimates that the program will cost $782 million in the first 5 years, including expenditures for the phasing out of the old system.

The bill has several problems. First, it does not allow the United States to requisition subsidized U.S. ships in a national emergency. It would allow U.S. flag-carriers to protect specific vessels from shipping materials to a war zone. If commercial interests determine which vessels go and when, we should pay them on an as-needed basis. We shouldn't pay for a benefit we don't receive.

Second, the bill does not require those seafarers who are in the Maritime-Security fleet to serve when called. During the Persian Gulf war, our country had to draw from a pool of retired merchant mariners to care for our fleet. That is wrong and it should be changed.

Under this program, merchant mariners can earn more money than their military counterparts for war-time pay. The bill should be corrected to make merchant-mariners bonuses commensurate with those of the Army, Navy, Air Force, and Marines. I have been told of one merchant mariner who was paid thousands of dollars for a few months worth of service during the Persian Gulf war. Most enlisted military officers received far less than that.

Finally, the bill must require those carriers who receive a taxpayer subsidy to carry war materials into the war zone. The maritime fleet must not be allowed to drop off war materials to commercially convenient spots. If the taxpayers are paying for this service, then it is our duty to ensure that they receive what they are paying for.

Mr. President, the defects of the bill are not figments of the imagination conjured up by a few budget hawks. The Vice President's National Performance Review recommended that all maritime subsidies be ended for a savings of $23 billion over a 10-year period. The Department of Transportation's inspector general concluded that the entire Maritime Administration and all of its U.S.-flag subsidies should be terminated. The Office of Management and Budget estimates that international cargo preference laws will cost Federal Government agencies an additional $600 million in fiscal year 1996. A November 1994 GAO report said that cargo-preference policies support at most 6,000 of the 21,000 mariners in the U.S. merchant marine industry. That is an annual cost of $100,000 per seafarer—at taxpayer expense. Additionally, Citizens Against Government Waste, the National Taxpayers Union, and Americans for Tax Reform are opposed to the bill.

The Federal debt is more that $5 trillion. Five years ago, the debt was $3.6 trillion. Clearly, Government spending is out of control and Congress must place priorities in the way it spends taxpayer dollars. Most families live under a budget. Most have a limited amount of resources that they must spend on food, clothing, shelter, and the like. And many families have little left over for the extras in life. They don't spend for every whim because they know that they must stay within their means. Why can't Congress do the same? Why can't Congress spend the people's money on core tasks only. Why can't Congress forgo the extras?

It will take a colossal effort to control the Government's debt. But every long journey begins with the first step. I urge my colleagues to take that first step and vote against this bill. I thank the chairman and ranking member for the opportunity to express my concerns.

Mr. STEVENS. Mr. President, there are three votes remaining. One is the Grassley amendment. There is a second Grassley amendment, and then final passage, hopefully, on the bill.

I ask unanimous consent—this has been cleared—that each of these votes be a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The yeas and nays have not been ordered.

AMENDMENT NO. 5393

Mr. STEVENS. I move to table the Grassley amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from Iowa. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

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

The result was announced—yeas 65, nays 33, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—65

Akaka	Cohen	Feinstein
Bennett	Conrad	Ford
Biden	Coverdell	Frist
Bingaman	D'Amato	Glenn
Boxer	Daschle	Gorton
Bradley	DeWine	Graham
Breaux	Dodd	Harkin
Bryan	Domenici	Hatch
Byrd	Dorgan	Hatfield
Chafee	Exon	Hollings
Cochran	Feingold	Hutchison

Inouye	Mack	Santorum
Jeffords	Mikulski	Sarbanes
Johnston	Moseley-Braun	Shelby
Kennedy	Moynihan	Simon
Kerrey	Murkowski	Snowe
Kerry	Murray	Specter
Lautenberg	Nunn	Stevens
Leahy	Pell	Thurmond
Levin	Reid	Warner
Lieberman	Robb	Wyden
Lott	Rockefeller	

NAYS—33

Abraham	Gramm	McCain
Ashcroft	Grams	McConnell
Baucus	Grassley	Nickles
Bond	Gregg	Pressler
Brown	Helms	Pryor
Bumpers	Inhofe	Roth
Burns	Kassebaum	Simpson
Coats	Kempthorne	Smith
Craig	Kohl	Thomas
Faircloth	Kyl	Thompson
Frahm	Lugar	Wellstone

NOT VOTING—2

Campbell	Heflin

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, may we have order now? We have one more vote.

AMENDMENT NO. 5394

The PRESIDING OFFICER. Under the previous order, there will be 1 minute for the proponents of the amendment and 1 minute for opponents of the amendment, followed by a vote.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, my amendment says that H.R. 1350 subsidies, and that is $1 billion in total, cannot be used for campaign contributions, cannot be used for lobbying and cannot be used for so-called public education. Congress has supported similar restrictions on different bills and programs in the past, but we have no such restrictions for this $1 billion subsidy in this bill.

It was suggested last week that we provide for this. It could be done by a line item. If that is what is wanted, then I suggest to the proponents to put that in the bill, but it isn't in the bill.

So, consequently, I think we should make sure we don't allow these funds to be back-doored by the Maritime Administration for campaign contributions and for lobbying. Without this restriction, that is not certain.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, there is a Corrupt Practices Act. As a matter of fact, the $10 billion paid out of agricultural subsidies has no similar provision. This amendment is unnecessary. It is a killer amendment trying to convince Members to vote for amendments so the bill will go back to the House and die.

The purpose of this bill is to save $100 million a year and to continue the program of keeping the merchant marine available for the United States in time of emergency. It will cost $100 million a year for 10 years under this bill, not $1 billion, as that article on your desks says; $100 million a year for 10 years.

I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment No. 5394. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 299 Leg.]

YEAS—50

Akaka	Ford	McCain
Bennett	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Moynihan
Breaux	Graham	Murray
Bryan	Hatfield	Pell
Chafee	Hollings	Pryor
Cochran	Inouye	Reid
Cohen	Jeffords	Robb
Coverdell	Johnston	Rockefeller
D'Amato	Kennedy	Sarbanes
Daschle	Kerrey	Specter
DeWine	Leahy	Stevens
Dodd	Levin	Thurmond
Dorgan	Lieberman	Wellstone
Exon	Lott	Wyden
Feinstein	Mack	

NAYS—48

Abraham	Frahm	Lugar
Ashcroft	Gramm	McConnell
Baucus	Grams	Murkowski
Bond	Grassley	Nickles
Boxer	Gregg	Nunn
Bradley	Harkin	Pressler
Brown	Hatch	Roth
Bumpers	Helms	Santorum
Burns	Hutchison	Shelby
Byrd	Inhofe	Simon
Coats	Kassebaum	Simpson
Conrad	Kempthorne	Smith
Craig	Kerry	Snowe
Domenici	Kohl	Thomas
Faircloth	Kyl	Thompson
Feingold	Lautenberg	Warner

NOT VOTING—2

Campbell	Heflin

The motion to lay on the table the amendment (No. 5394) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, America has relied upon its merchant marine, ports and maritime industries for both trade and defense since colonial days.

Today, we will vote to ensure that America will continue its maritime community into the 21st century.

Today, we recognize that America as a nation must make an investment in its maritime infrastructure.

Today, we will vote for a program which is an efficient and flexible policy that will allocate scarce public resources in a responsible manner.

This program will also guarantee that our Nation will have trained Americans to crew these vessels as well as the Department of Defense's pre-positioned and Ready Reserve Fleet.

This program will significantly reduce the cost of the Federal maritime operating assistance programs. We are talking about cutting the funding in half.

This program will eliminate outdated and unnecessary rules and regulations which limits and restricts the ability of U.S. flag vessels to compete and modernize their fleets.

I want to take just a moment and recognize the hard work of Congressman HERB BATEMAN and Senators STEVENS, INOUYE, HOLLINGS and BREAUX.

This has been a real team effort. These Members of Congress were actively involved in crafting and advancing this legislation. The journey for maritime reform started over two decades ago.

This particular bill has been on a 9-year legislative trip with over 50 hearings. Its time has come.

I also want to recognize the work of staff who assisted the process: Rusty Johnston, Jim Schweiter, and Bob Brauer of the House's National Security Committee; Earl Comstock of Senator STEVEN's staff; Jim Sartucci and Carl Bentzel of the Senate's Commerce Committee; and Margaret Cummisky of Senator INOUYE's staff.

The full Senate has devoted nearly two full days for a spirited dialogue on this legislation. And, the Senate has considered a wide range of amendments. The bill is ready for vote on final passage.

I stand here today on the Senate Floor and proudly ask my colleagues to support the Maritime Security Program to guarantee that our Nation will have the nucleus of a modern, militarily useful active commercial vessels sailing under the American flag.

This vote will ensure that whenever the United States decides to project American forces overseas for either an emergency or national defense, there will be a maritime lifeline. I firmly believe that Congress has a duty and responsibility to guarantee that a real and viable maritime lifeline is maintained and provided.

We are the world's only remaining superpower and we have global interests and responsibilities. A healthy maritime community is essential for this role.

I stand here today representing a bill that enjoys wide and deep bipartisan support. It deserves your support and your vote.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill was read the third time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. My information is, this is the last vote. After that last courageous vote, I hope that all Members will remember this is national defense—national defense—keeping ships available for emergencies, saving $100 million a year. I urge the Senate to vote positively on this bill. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

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

The result was announced—yeas 88, nays 10, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—88

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frahm	McConnell
Baucus	Frist	Mikulski
Bennett	Glenn	Moseley-Braun
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Murray
Boxer	Gregg	Nunn
Bradley	Harkin	Pell
Breaux	Hatch	Pressler
Brown	Hatfield	Pryor
Bryan	Helms	Reid
Bumpers	Hollings	Robb
Byrd	Hutchison	Rockefeller
Chafee	Inhofe	Santorum
Cochran	Inouye	Sarbanes
Cohen	Jeffords	Shelby
Conrad	Johnston	Simon
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Smith
D'Amato	Kennedy	Snowe
Daschle	Kerrey	Specter
DeWine	Kerry	Stevens
Dodd	Kohl	Thurmond
Domenici	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Exon	Levin	Wyden
Faircloth	Lieberman	
Feingold	Lott	

NAYS—10

Burns	Kyl	Thomas
Coats	Lugar	Thompson
Grams	Nickles	
Grassley	Roth	

NOT VOTING—2

Campbell	Heflin

The bill (H.R. 1350) was passed.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, once again I want to commend two of the most outstanding bill managers we have in the U.S. Senate, the great Senator from Alaska, Senator STEVENS, and the great Senator from Hawaii, Senator INOUYE. They have done yeoman's work on this bill and bills last week. So we are looking for another hard job for them to do that we will call on them to do before this week it out. Thank you very much for getting this bill passed.

JAN PAULK

Mr. LOTT. Mr. President, in the weeks ahead, as the 104th Congress comes to a close, we will be paying tribute to several of our colleagues, from both sides of the aisle, who, for one reason or another, will be leaving the Senate at the end of this year. But it is not only our fellow Members who will be missed.

The Senate will soon lose one of its longest-serving staffers, someone who has become a veritable institution within this institution.

I am referring to Jan Paulk, our Director of Interparliamentary Services. She has held that position since it was first created in 1981, and her exemplary performance in that post has defined its role in the life and the activities of the Senate.

Jan came to the Senate from Russellville, AR, a graduate of the University of Arkansas, and joined the staff of the Foreign Relations Committee under its then chairman, William Fulbright.

Her background in international matters made her a natural to head up our office of Interparliamentary Services.

In that capacity, she has been responsible for the administrative, financial, and protocol aspects of all our interparliamentary conferences. She has overseen all of the Senate's delegations traveling abroad with leadership authorization.

In short, she has been the Senate's combination of travel office and Department of State, part tour guide, part Chief of Protocol, part guardian angel to congressional families overseas.

Most Members of the Senate will have their own memories of Jan's helpfulness and thoroughness.

When things have gone smoothly for us at an international conference, we knew it was because of her meticulous planning. And when an unforeseen problem arose, we knew we could count on her combination of tact and toughness to straighten it out.

Jan has helped to plan countless visits to the Capitol by heads of state and heads of government.

As every Senator knows, these are not merely ceremonial affairs. They usually involve extremely serious matters of international commerce and diplomacy.

They can advance, or retard, our country's interests abroad, and are an important part of the Senate's special constitutional role in our Nation's foreign policy.

To put this tactfully, such visits are not always easy to arrange, but we could always rely on Jan to smooth things out before they could get rocky.

We all wish Jan well as she retires from the Senate. I know I speak, not only for our colleagues, but for our spouses as well, in wishing she were not leaving us.

We will miss her greatly.

And some of us will be sure to get her forwarding number in the confident assurance that, when we run into a particularly difficult problem, she will still be ready to lend a hand.

I want to take this opportunity to thank her, both for Tricia and myself, not just for her years of service, but for her calm in the face of crisis, her cheerfulness in the face of gloom, and for the way she gave real meaning and spirit to what we call the Senate family.

Mr. DASCHLE. Mr. President, I rise to say thank you to a woman who has been a good friend of the Senate, a good friend to Linda and me, and most importantly a good ambassador for our country, Jan Paulk.

Fifteen years ago, when then majority leader Howard Baker created the Senate's Office of Interparliamentary Services, he asked Jan to head it. She has been doing that job and doing it well ever since. You might say Jan is the Senate's youngest institution.

I am sure I speak for all of my colleagues when I say we will miss Jan's professionalism when she leaves us soon to take on a new challenge as head of Tulane University's new Asia Foreign Leadership Program.

Jan grew up in Russellville, AR, population 8,000. She first came to Washington as a high school senior. She had won an essay contest at her high school. First prize was a trip to Washington and $100 in spending money. She knew the first time she saw Washington that she wanted to make a career here in Government. She did return after college to work for Senator William Fulbright, first as a file clerk and then an assistant scheduler. She left Washington briefly to earn a master's degree in theater from Columbia University. To anyone who mistakenly suggests that theater was a successful diversion, Jan is quick to point out that there is a lot of theater in politics.

Jan returned to the Senate in 1971 as editor for the Senate Foreign Relations Committee and spent 3 years editing the landmark war powers hearings.

In 1974, she was put in charge of travel and protocol for the committee, and in 1981, when Senator Baker created the Office of Interparliamentary Services to handle those same functions for the entire Senate, he asked Jan to head it. As director of Interparliamentary Services, Jan has overseen the Senate's official foreign travel—a tough job that requires the stamina of an advance person, the poise of an Ambassador.

She and her small IPS staff handle every detail, from arranging the transportation to coordinating with host governments to making sure Senators understand local customs.

Jan's work has taken her to more than 100 countries in every continent

on Earth where she has represented not only this body but this Nation as well. She visited the former Soviet Union in 1975 with Senators Hubert Humphrey and Hugh Scott, the first time a congressional delegation had ever visited the Soviet Union at the invitation of the Supreme Soviet.

She visited China in 1979 with Senators Frank Church and Jacob Javits. She visited the gulf states just before the gulf war, and she returned just after the war while oilfields were still burning. And in June 1994, Jan coordinated the largest ever overseas delegation when 22 Senators traveled to Normandy to commemorate the 50th anniversary of D-day.

One trip I will always remember is the trip to Bosnia last April when Jan arranged for me and Senators HATCH and REID to attend functions and to visit the land that we had not yet visited following the war. We went to assess progress in implementing the Dayton peace accords. What promised from the start to be a difficult trip became immeasurably more difficult the morning we were to leave when the plane carrying Secretary Ron Brown and 34 others slammed into the ground in Dubrovnik.

Jan's professionalism helped us get through that trip. And in caring on, we were able to show the world that America's commitment to peace in the former Yugoslavia is unwavering.

Closer to home, she has helped welcome every head of State who has visited the Senate over the last 19 years.

In her 27 years in the Senate, Jan Paulk has worked for Democrats and she has worked for Republicans. She has served both with equal professionalism and skill. Most of all, she has served her Nation, and, for that, we are all grateful. Linda and I and all of our colleagues, I know, wish Jan the very best in her new challenge.

Mr. President, I yield the floor.

TRIBUTE TO SENATOR PAUL SIMON

Mr. LOTT. Mr. President, I know others will be commenting on this later on, but I was delighted to be one of those who wore a bow tie this afternoon in honor of our great friend and great Senator from the State of Illinois. The bow tie has sort of become his symbol, but he also is just one of the finest Senators, one of the finest men that we have serving in the U.S. Senate.

I have enjoyed working with him over many years. I have served with him here in the Senate. I have been on committees with him. I have found him to be a Senator who will stand for principle, and sometimes that means standing with Members of the Senate on the other side of the aisle. He truly will be missed as he goes back to his beloved State of Illinois. I am sure he will do many, many productive things in the future as he has in the past, as Lieutenant Governor of his State.

He is a very thoughtful Senator. This was just a little bit of levity today, as we all wore our bow ties in honor of PAUL SIMON. But it was a great symbol of affection that we have for a Senator we have enjoyed so much, and who we will miss as he goes back to Illinois.

MORNING BUSINESS

Mr. LOTT. Mr. President, I now ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

MEASURE READ THE FIRST TIME—SENATE JOINT RESOLUTION 63

Mr. LOTT. Mr. President, I send a joint resolution to the desk, which is a continuing resolution containing appropriations for Defense, Foreign Operations, Treasury-Postal, Labor-HHS, Interior and Commerce, State, Justice.

I ask its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 63) making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Mr. LOTT. I now ask for the second reading of the joint resolution and, on behalf of my Democratic colleagues, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I believe the resolution will be set aside and read a second time on the next legislative day, is that correct?

The PRESIDING OFFICER. The Senator is correct.

ADJOURNMENT

Mr. LOTT. Mr. President, I now ask unanimous consent the Senate stand in adjournment for 1 minute and, upon reconvening, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

There being no objection, at 6:36 p.m., the Senate adjourned until 6:37 p.m. the same day.

The Senate met at 6:37 p.m., and was called to order by the Honorable MIKE DEWINE, a Senator from the State of Ohio.

MEASURE PLACED ON THE CALENDAR—SENATE BILL 2100

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2100) to provide extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

Mr. LOTT. I object to further consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the Calendar of General Orders.

MEASURE PLACED ON THE CALENDAR—SENATE JOINT RESOLUTION 63

The PRESIDING OFFICER. The clerk will read the joint resolution for the second time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 63) making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Mr. LOTT. I object to further consideration of the joint resolution at this time.

The PRESIDING OFFICER. The joint resolution will be placed on the Calendar of General Orders.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY VA–HUD APPROPRIATIONS BILL

Mr. LOTT. Mr. President, I ask unanimous consent that once the Senate receives from the House the conference report to accompany the VA–HUD appropriations bill that the conference report be considered and agreed to, the motion to reconsider be laid upon the table, and any statements in connection with the conference report be printed in the RECORD.

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

Mr. BOND. Mr. President, it is my pleasure to present to the Senate the conference agreement on the VA, HUD, and independent agencies appropriations bill for fiscal year 1997. I'm especially pleased that this final step in congressional consideration of this measure is occurring prior to start of the fiscal year. Furthermore, we anticipate this measure will be separately signed into law and not become part of another continuing resolution, which has become quite a distinction for a major appropriations bill in this Congress.

I would note that it is especially critical that we enact this bill immediately to avoid potential delays in processing of veterans disability compensation and pension checks. In addition, prompt enactment is necessary to prevent potential disruption in other critical governmental functions such as the sale and processing of Federal flood insurance policies and financing of VA and FHA mortgages.

Mr. President, much of the recent attention paid to this bill has been over disposition of the three major health issues riders added during Senate floor debate: the Domenici-Wellstone mental health parity provision; the Bradley-Frist maternity health care amendment; and the spina bifida VA entitlement. While our appropriations conferees can't take credit for it, we are

nonetheless pleased that at our urging the House and Senate legislative committees of jurisdiction, on a bipartisan basis, worked out agreements on these very substantial policy issues which are incorporated in our conference agreement. Moreover, at our urging, each of these legislative proposals now have delayed effective dates which permit a final legislative review in the next session of Congress, prior to implementation.

Mr. President, beyond serving as a vehicle for these major health policy provisions, the underlying measure is itself the largest non-defense discretionary appropriations bill, with nearly a third of the Government-wide total. Its critical role in establishing program levels and direction for the environment, housing and community development, veterans health programs, and science and technology is the reason why Congress and the White House took so long to reconcile our differences during this past year.

These are major funding issues which reflect profound policy disagreements. None of us, however, want to repeat the long delays and frustrations we experienced during the past year of being unable to enact this critical funding measure. We have attempted to avoid reopening past disagreements and controversies which blocked this bill last year.

Our effort to facilitate this measure has meant that this bill, in a number of respects, reflects funding levels and policies which are compromises between very different viewpoints. One example is the inclusion of funds at the 1996 enacted level for the Corporation for National and Community Service. I, and many others, continue to have strong reservations about this program, but there is no doubt that failure to fund it would result in a Presidential veto. So despite our misgivings, this conference agreement maintains the current level of funding for this program, which continues to be more than I believe warranted, but less than what is requested by the White House. The House agreed with this position of the Senate, despite their previous opposition to providing any funding for continuing this program.

With respect to other agencies funded in this bill, the conference agreement attempts to balance a wide variety of competing interests within a very constrained budget allocation.

The conference agreement provides $17.013 billion for veterans medical care—an increase of $5 million above the President's request and $450 million above the 1996 level. This account received the highest priority in the legislation, and hence the largest increase. The amount provided will ensure that VA will continue to provide care to the 2.8 million veterans currently receiving VA medical services.

The conference agreement also includes $100 million in 1996 supplemental appropriations for veterans compensations and pensions. If the Senate passes this critical legislation no later than today, September 25, these additional funds will ensure that veterans will receive their September checks on time. Delays may result in veterans checks being late.

For EPA, a total of $6.7 billion is included—$184 million more than the fiscal year 1996 amount. This includes approximately $2.9 billion in funds for the States—of which $1.9 billion is for State revolving funds for drinking water and wastewater infrastructure—fully funded at the President's request level. It also provides the President's full request of $1.394 billion for Superfund, to ensure site cleanups are not slowed despite the need to reform the program.

Despite the very compelling arguments made by some members, the conference agreement does not include so-called riders in EPA in view of our desire to keep this legislation as free of controversy as possible.

For FEMA disaster relief, the conference agreement provides $1.32 billion—all of which would become available immediately—to meet the needs arising from hurricanes Fran and Hortense, and other disasters currently on the books. These funds, in addition to the $3.7 billion in previously appropriated disaster relief funds currently available for obligation, obviate the need for a supplemental appropriation for disaster relief at this time.

The conference agreement includes a 1-year extension for FEMA's flood insurance program—so that there is no lapse in FEMA's ability to write flood insurance policies and carry out the flood mapping program. After the recent hurricane disasters, many homeowners are only too familiar with how critical this program is.

For the Department of Housing and Urban Development, the conference recommendation continues the policies and programmatic reforms enacted last year. It was a major disappointment that Congress was unable to enact a comprehensive public and assisted housing reform authorization bill. This appropriations bill, however, contains temporary extensions of provisions needed to halt the ever-increasing cost of housing subsidy commitments and to continue progress in reforming wasteful and ineffective housing and community development programs. Equally important, this bill restructures funding of Department of Housing and Urban Development to eliminate bureaucratic overlap and promote local flexibility and decision making. I hope that the authorizing process will pickup where they left off this year and expeditiously enact these reforms as permanent legislative changes.

Similarly, this appropriations bill contains multifamily housing restructuring proposals which were under consideration by the authorizing committee. We cannot afford to continue the excessive subsidies currently being paid to sustain this inventory of nearly a million apartments for low-income families. Unless Congress acts to reduce the excessive debt of this housing inventory, along with implementing other management improvements, there could be massive defaults and widespread resident displacement.

The complexity and difficulty of developing a consensus on these issues are substantial. Project owners, including limited and general partners, project managers, residents, State housing finance agencies, local community development organizations, bond holders, and municipal governments are among those with significant interests in how we address this issue. These interests, however, frequently are divergent and competing. Of course, we must also be mindful of the billions of taxpayers dollars previously invested in this multifamily housing inventory, and the billions more which are at risk over the next several years depending on which policies and financing mechanisms we select to deal with these issues.

The conference agreement reflects our attempt at finding a reasonable balance between these sometimes conflicting concerns. We cannot afford continuing to pay excessive subsidies for these multifamily housing projects, even those which provide very good housing for low income families. And some portions of this inventory are little more than the slums they were intended to replace. The conference recommendation is not a comprehensive solution. It simply is an attempt to deal with these issues in that fraction of the multifamily inventory that have section 8 contracts which expire during fiscal year 1997. We are acting solely because affirmative action is required to prevent defaults and potential resident displacement during the fiscal year.

I want to thank the Senator from Oregon, chairman of our full Appropriations Committee, for his support and assistance during our consideration of this bill. Changes in our budget allocation, made on his recommendation, enabled us to provide funding to reduce the potential for displacement of low-income families from currently subsidized housing. With this allocation we were also able to restore funding for the Community Development Block Grants program [CDBG] at the full current fiscal year 1996 funding level of $4.6 billion, and not withhold $300 million from obligation as was proposed in the House-passed bill.

Mr. President, it is very unfortunate that the Senator from Oregon is retiring from the Senate since the funding requirements necessary to maintain subsidized housing are expected to grow even larger over the next several years, and his appreciation of the importance of this investment will be sorely missed. I would note, however, that with his help we have been able to begin weaning this inventory of housing from its continued dependence on heavy Federal subsidies.

The conference agreement for NASA totals $13.7 billion, an increase of $100

million over the House—and adopts the Senate-passed restoration of funds for the Mission to Planet Earth program to study global climate change. The conference agreement also incorporates buyout legislation necessary to facilitate reductions in staffing without resorting to very disruptive reductions-in-force [RIF's]. Also included is transfer authority, similar to that enacted last year, which provides NASA the flexibility to redirect funding within the $2.1 billion total provided for the space station in order to avoid costly delays or schedule slips.

Mr. President, after making adjustments for the necessary replenishment of the FEMA disaster relief account and for enactment of housing legislative savings, the net increase in actual appropriated program levels is only $84 million, or just one-tenth of one percent over the previous year. While an aggregate freeze, the total reflects some substantial increases offset by commensurate decreases for several of our agencies. The biggest increase, $569 million, was provided for discretionary programs of the Department of Veterans Affairs. The only other agencies to receive significant increases were the Environmental Protection Agency, with an $184 million increase, and the National Science Foundation which received $50 million more than last year. These increases were offset by cuts of $625 million in HUD, and $200 million in NASA.

Finally, I want to express my appreciation to the Senator from Maryland for her assistance and cooperation in putting together this bill. We confronted major challenges, not only due to the complexity of some of the programmatic and budgetary issues within our jurisdiction, but also in dealing with some very sensitive policy concerns of a legislative nature. And, as has become an annual concern, we have had to deal with daunting budgetary constraints. She has been invaluable in guiding this difficult bill through some contentious points in the Senate and in conference. Amid the wide ranging issues and concerns we have dealt with in consideration of this bill, she has been steadfast in her determination to get our task accomplished. I am very grateful for all her help.

Mr. President, I would also like to thank the many staff members who also have made a major contribution to consideration of this bill: Sally Chadbourne, Catherine Corson, David Bowers, and Liz Blevins on the minority side; and Stephen Kohashi, Carrie Apostolou, Julie Dammann, Jon Kamarck, and Lashawnda Leftwich on our side.

Ms. MIKULSKI. Mr. President, I am happy to join my distinguished colleague, the Senator from Missouri, to offer for Senate consideration the fiscal year 1997 conference report for the VA–HUD and independent agencies appropriations bill. With $84.7 billion in spending—$20.3 billion in mandatory spending and $64.3 in discretionary budget authority, this is one of the largest and most diverse appropriations measures we must consider.

I am particularly pleased by our ability to achieve compromise on many complicated issues as we worked out this agreement with our colleagues in the House. This bill funds a tremendous diversity of agencies and programs. It is a challenge every year to develop a passable, signable bill that addresses a variety of concerns from all Members of Congress and the American people. By accepting our differences on many of the issues that plagued the VA–HUD and independent agencies appropriations bill last year, and prohibiting environmental riders, we have avoided being included in an omnibus continuing resolution, and Mr. President, to the credit of all involved, we have a signable bill.

Mr. President, I would like to second the urging of Chairman BOND that we move forward with this bill immediately. We need to avoid potential delays in processing of veterans disability compensation and pension checks as well as Federal flood insurance policies. Both matters are addressed in supplemental legislation included in the fiscal year 1997 VA–HUD appropriations bill.

Mr. President, as you know, this bill contains funding for a diverse group of Federal agencies and programs. Yet it also contains three important health care provisions first proposed by the Senate and agreed to by the conference.

I am a proud cosponsor of a measure introduced by Senator DASCHLE to extend benefits to children of Vietnam veterans exposed to agent orange who have spina bifida. This will provide needed support for our veterans' children and their families. I would note to Senator's DASCHLE's credit, that this provision passed overwhelmingly in the Senate, as did the motion to accept it in the House.

Second, our bill includes Senator BRADLEY's newborns health provision, which prevents ''drive-through'' baby deliveries. Because of this bill, developed with Senator FRIST, insurance companies will no longer be able to force mothers out of the hospital in less than 48 hours after delivery. This is an important measure impacting every American family.

Third, Senators WELLSTONE and DOMENICI's mental health provision prevents discrimination against people with mental illness. When this bill passes, insurance companies that provide coverage for mental health will have to offer the same lifetime cap as they do for other illnesses. We have heard here on the Senate floor stories from Senators about families devastated by insurance discrimination.

Mr. President, the three provisions provide real answers to real problems faced by the American public. They are important components of the health care initiatives that this administration has worked so hard to carry out.

As you can see, this bill is about more than just agencies and programs and budget authority: it is about real people. The bill provides $39.2 billion for the Department of Veterans Affairs, including $17.3 billion for veterans health care, and $20.4 billion for veterans benefits. It ensures that promises made are promises kept to our Nation's veterans.

The bill provides HUD with $19.5 billion, including full funding, at $4.6 billion, for community development block grants. This money is used to provide real economic opportunities for people trying to help themselves—in places like Baltimore, Houston, and Charleston, SC. It funds the President's request for housing for people with AID's, providing desperately needed housing for people living with AID's.

The bill continues a significant FHA multifamily housing mark-to-market demonstration program. While taking on such an ambitious authorization effort for reforming the assisted housing program may be beyond the call of duty for the Appropriations Committee, this provision is the necessary first step toward reducing the excessive debt of the assisted housing inventory while avoiding putting families out on the street. This bill creates opportunities for the poor—but not hollow opportunities. Instead it reaffirms proper oversight of our Nation's housing programs, while avoiding new and expanded liabilities for the taxpayer.

In addition, the bill continues to streamline the management of the Environmental Protection Agency and encourages EPA to prioritize, focusing its resources on those problems that pose the highest risk to human health and the environment. The EPA is provided $6.7 billion, which is $185 million more than last year. The money will be used to ensure that people across this Nation breathe clean air and drink clean water. Unfortunately, due to limited resources, the bill does not provide the President's full request for environmental programs. In particular, I am concerned about reductions in programs like Boston Harbor, Montreal Protocol, Climate Change, and the Environmental Technologies Initiative. But we did the best we could with the resources we had available.

The bill restores the fiscal year 1996 $1 billion recision from the FEMA disaster relief fund and makes the funds available immediately. This will help families and communities devastated by hurricanes, floods, and other disasters. This is real help for real people, from North Carolina to Maryland to California.

I am particularly pleased that this bill maintains funding for the Corporation for Community and National Service at $402.5 million. National service creates an opportunity structure—community service in exchange for a college education. It encourages volunteerism and rekindles habits of the heart. It fosters the spirit of neighbor helping neighbor that made our country great. National service is about

real people offering real help to real communities.

This bill also provides additional funding for the consumer agencies, including $42.5 million for the Consumer Product Safety Commission and $2.3 million for the Consumer Information Center. This is $200,000 more than the President's request.

Mr. President, I am concerned that funding for NASA is $100 million below the President's request. I am concerned that space programs are taking a beating. Reductions in our space budget and our uncertainty about NASA outyear numbers jeopardize ongoing commitments, as well as our ability to fund new and innovative space science programs.

Together with the administration, I plan to discuss the future of our space programs at a national space summit, to be held in December. I urge my colleagues to join the discussions that will take a critical look at how to maintain our preeminent space program, despite huge cutbacks in the overall budget.

Fortunately Mission to Planet Earth was spared the cut it took in the original House bill. Mission to Planet Earth data will be used to help prepare our communities to deal with natural disasters, such as the recent Hurricane Fran which negatively affected thousands of people's lives. Mission to Planet Earth will also give our fishermen better tools to sustain their livelihood and help our farmers decide what and when to plant their crops.

This bill also helps NASA employees and their families. It provides NASA employees buyout authority. We expect the buyout authority to reduce the impact of downsizing on people's lives. Furthermore, the bill protects the jobs for the eastern shore of Maryland at Wallops Island.

Mr. President, this bill is about more than just programs and budget authority. This bill streamlines the Federal Government, yet it protects jobs. This bill provides important health benefits for mothers and babies, new benefits for veterans, and housing for low-income families. It maintains our global scientific leadership, and prioritizes our environmental programs. It protects our drinking water and teaches our children the art of community service. From children born with spina bifida to the Nobel laureates who help prevent birth defects, this bill provides real help for real people.

Mr. President. The diversity or programs funded by this bill reflect the diversity of this country. I urge my colleagues in the Senate to support this conference report.

Finally, I would like to thank Senator BOND, Congressman LEWIS and Congressman STOKES for all the hard work they've done to get this bill to conference and to keep this bill from ending up in a continuing resolution. I would personally like to thank my appropriations staff, Sally Chadbourne, Catherine Corson, David Bowers, and Liz Blevins, as well as the majority staff, Stephen Kohashi, Carrie Apostolou, and Lashawnda Leftwich. I would also like to thank the members of my personal office staff and those on Senator BOND's staff who worked so hard to help us get through this conference.

DESIGNATING ROOM S. 131 IN THE CAPITOL AS THE MARK O. HATFIELD ROOM

Mr. LOTT. Mr. President, I ask unanimous consent the Senate turn to Senate Resolution 298, submitted by Senator BYRD and others, the resolution be deemed agreed to, the motion to reconsider be laid upon the table, all without further action or debate.

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

Mr. LOTT. I ask unanimous consent that all Senators be added as cosponsors to this resolution.

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

The resolution (S. Res. 298) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 298

Whereas Senator Mark O. Hatfield, the son of Charles Hatfield (a railroad construction blacksmith) and Dovie Odom Hatfield (a school teacher), upon the completion of the 104th Congress, will have served in the United States Senate with great distinction for 30 years;

Whereas Senator Mark O. Hatfield is the longest serving United States Senator from Oregon;

Whereas Senator Mark O. Hatfield serves on the Committee on Energy and Natural Resources, the Committee on Rules and Administration, the Joint Committee on the Library, and the Joint Committee on Printing;

Whereas Senator Mark O. Hatfield serves as Chairman of the Committee on Appropriations and has provided for the development of major public works projects throughout the State or Oregon, the Pacific Northwest, and the rest of the Nation;

Whereas Senator Mark O. Hatfield has constantly worked for what he calls "the desperate human needs in our midst" by striving to improve health, education, and social service programs;

Whereas Senator Mark O. Hatfield has earned bipartisan respect from his Senate colleagues for his unique ability to work across party lines to build coalitions which secure the enactment of legislation; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Mark O. Hatfield as a reminder to present and future generations of his outstanding service as a United States Senator; Now, therefore, be it

Resolved, That room S. 131 in the United States Capitol Building is hereby designated as, and shall hereafter be known as, the "Mark O. Hatfield Room" in recognition of the selfless and dedicated service provided by Senator Mark O. Hatfield to the Senate, our Nation, and its people.

REAUTHORIZING THE SENATE ARMS CONTROL OBSERVER GROUP

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now turn to the consideration of Senate Resolution 299 which is at the desk, reauthorizing the Senate Arms Control Observer Group, the 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 resolution (S. Res. 299) was agreed to, as follows:

S. RES. 299

Resolved, That subsection (a) of the first section of Senate Resolution 149, agreed to October 5, 1993 (103d Congress, 1st Session), is amended by striking "until December 31, 1996" and inserting "until December 31, 1998".

ORDERS FOR WEDNESDAY, SEPTEMBER 25, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m., Wednesday, September 25; further, that immediately following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved, and there then be a period for the transaction of morning business not to extend beyond the hour of 12 noon with Senators permitted to speak for not more than 5 minutes each with the following exceptions for times designated: Senator FAIRCLOTH, 10 minutes; Senator THOMAS, 30 minutes; Senator DASCHLE or his designee, 30 minutes; Senator MURRAY, 10 minutes; Senator KENNEDY, 30 minutes; and Senator REID, 15 minutes.

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

Mr. LOTT. I further ask unanimous consent that at the hour of 12 noon the Senate proceed to executive session to begin consideration of Calendar No. 23, the International Natural Rubber Agreement as under a previous order.

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

PROGRAM

Mr. LOTT. Tomorrow, there will be a period for morning business to accommodate a number of requests from Senators. At noon, the Senate will consider the natural rubber agreement. However, it is my understanding that a rollcall vote will not be necessary on that matter.

Following disposition of that treaty, the Senate will consider either the pipeline safety bill, with only one issue outstanding on that matter, and I understand they are still working on it, or possibly the work force development conference report or additional debate with regard to the veto message to accompany the partial-birth abortion veto override.

So the Senate will begin consideration of the continuing resolution during tomorrow's session. Therefore, all Senators should expect rollcall votes throughout the day on Wednesday, possibly into the night. Of course, I will be

talking with the Democratic leader, the Senator from South Dakota, about how we can design a process to proceed to the continuing resolution. And we will keep all Senators advised how we will proceed on the continuing resolution.

With that, Mr. President, I thank the Senator from South Dakota for his patience. I yield the floor.

PAUL SIMON'S CONGRESSIONAL CAREER

Mr. DASCHLE. Mr. President, there are a number of reasons we are grateful to see the end of the 104th Congress, but one reason I regret this ending is that it also marks the end of PAUL SIMON's distinguished career in Congress.

I have had the privilege of working with PAUL SIMON in both the House and in the Senate. I have found him always to be an honest and decent man who loves his country very deeply. Perhaps what stands out about PAUL SIMON the most after his bow tie—and I must say we have all improved our looks and image substantially this afternoon by adopting his practice of wearing a bow tie—is his strongly developed sense of moral leadership. His parents were both Lutheran missionaries, his father, I am told, an idealist and his mother a pragmatist who handled all the family's expenses. From their combined influence, he grew into what he described as a pay-as-you-go Democrat.

As a young man, PAUL SIMON did not want to be in government. He wanted to keep an eye on it and write about it. In 1948, he bought the struggling Troy, IL, Tribune, and at 19 became the Nation's youngest newspaper editor-publisher. He eventually built that paper into a chain of 14 newspapers.

He interrupted his journalism career in an Army counterintelligence unit monitoring Soviet activities in Eastern Europe from 1951 to 1953. When he returned to journalism in 1954, he tried unsuccessfully to recruit candidates to run for public office. After hearing ''no'' one too many times, he finally decided at the age of 25 to run for the Illinois State Legislature. That was the beginning of a long and very distinguished career.

PAUL SIMON served four 2-year terms in the Illinois House and two 4-year terms in the Senate. He provided constituents with detailed reports on spending long before the passage of the disclosure laws. He was elected to the U.S. House of Representatives in 1974 and reelected four times. He joined the Senate in 1984. Fortunately for students of politics and for history, the old newspaper reporter in him never stopped working. Senator SIMON is the author of 14 books and countless articles.

In 1987, when he announced his candidacy for President, PAUL SIMON said, ''I seek the Presidency with a firm sense of who I am, what I stand for, and what I can and will do to advance the cause of this great Nation.''

It is that same strong sense of who he is and what he stands for that has made PAUL SIMON such an invaluable asset to this body and to our Nation. It was in part the leadership of this pay-as-you-go Democrat that helped this Nation understand that we have a job to do in balancing the budget and that we have to do it the right way, without ripping apart America's safety net. I, and I know all of my colleagues, will miss Senator SIMON's good humor. Unfortunately, I suspect I will not miss his good counsel because I am confident that Senator SIMON will continue in his new career to write and to keep us on the right track, just as he has one way or the other for all of these years.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

TRIBUTE TO SENATOR PAUL SIMON

Ms. MOSELEY-BRAUN. Mr. President, a few minutes ago—actually an hour ago now—the Senate demonstrated, I think, the kind of cooperation and collegiality that really is in the best tradition of this Senate, when Members on both sides of the aisle, male and female alike, came out wearing bow ties as a tribute to my senior Senator, PAUL SIMON.

At the outset, I would like to thank the people who made it possible: Senator CONNIE MACK of Florida, with whom I had conversations regarding the surprise to PAUL SIMON and who made it possible also for Members on the Republican side of the aisle to have bow ties; to Senator DAVID PRYOR of Arkansas who took the initiative to have the ties made. I had to question him why it was that the girls didn't exactly get ties. We had to tie our own bows. But it was all right because the bows are really quite lovely. I know many of us will probably keep these as part of our wardrobes permanently. I couldn't help but think, when I saw so many Members of this Senate come out on the floor in their bow ties or their bows, how very special this institution is in its tribute to a very special Member.

First, with regard to the institution. We very often call each other ''distinguished,'' ''my good friend,'' ''the honorable.'' But there is something about serving in an institution like this that brings us together and binds us together, almost like a family, without regard to our political affiliation or even our philosophical orientation, maybe because we spend so many hours together or we work together and we work such long hours together, a point that is often missed by the general public. But the fact is, because of our coming together in so many different endeavors, the Members of this body all have a special regard and a special relationship one to the other.

I think that regard and that relationship was reflected in the tribute to Senator PAUL SIMON when Members, again on both sides of the aisle, so willingly took up the bow tie and took up the bow in honor of him and in tribute to what has become his signature—his bow tie.

Senator PRYOR is on the floor now, and I don't know where he had these made, but they certainly are gorgeous.

Senator PRYOR and Senator MACK and the other Members, and I must say we had cooperation from just about everybody—the people in the cloakroom who made the ties available, the staffer who helped play a little trick on PAUL SIMON this afternoon when we sent him a note that said he had a phone call so he would leave the caucus long enough for an announcement to be made about the surprise. Everyone has cooperated to make this possible.

It was really a great honor to him and a great honor to his service to this institution, as well as our State of Illinois and our Nation that this tribute was such a moving one. Even though we were in the middle of votes, everyone made the point to go up and to speak to Senator SIMON and to wish him well.

PAUL SIMON epitomizes public service. He has always sought to make government work for the people. He understands that democratic government is not separate and distinct from the people. But it is no more, no less than a mechanism for all of us to come together for our common good. In a democracy, government is all of us, and PAUL SIMON has spent a lifetime making government real, making government responsive, making government serve the public interest.

He is a genuine public servant, and a public servant who has functioned consistent with his beliefs and his principles and his own ethic over the years, whether popular or unpopular, in the good times and the bad ones.

One can always be certain that PAUL SIMON's values are never very far from his votes. He always has been known to care for the less fortunate, for those without a voice. His compassion for people has helped make him a conscience for this body and, indeed, for our Nation. He has been a fighter on issues without regard to whether or not they made it on the polls or the pop charts.

In fact, he started working for education, for example, before it was as high up in the polling as it is today. Education is a passion of PAUL SIMON because he believes that it is an integral part of opportunity in preserving the American dream. So he fought for educational opportunity, and he has fought to make certain that opportunity was extended to all Americans everywhere—handicapped Americans, minority Americans, Americans in the suburbs and the cities—wherever in this country. PAUL SIMON's concern as a small ''d'' democrat for the people of this country has been unwavering.

It is that same concern that drove him to be the chief architect and the

chief sponsor of the balanced budget constitutional amendment. Many times when I am called on, when I speak to people about the balanced budget amendment, which is an issue that now is very popular—it wasn't when he first started working on it—I remind people that it was a Democrat, PAUL SIMON, who championed the balanced budget amendment before it was popular.

He did so because he knows and he believes that we have a duty in our generation to leave our children more than a legacy of debt. So it is essential, again, if we are going to hold on to that American dream, that we have to be responsive to the people, but we have an obligation also to be prudent and not to be profligate in our spending.

I heard a story the other day that I think really describes PAUL SIMON, that I think is so typical or so appropriate with regard to describing PAUL SIMON. A woman said to me she always liked people who liked children and people who liked trees, because those were people who cared about what came after they were gone. If you think about it, caring about children and caring about trees and caring about the future of America is exactly what has distinguished PAUL SIMON's service in this Senate and in his public life through the years in the State of Illinois.

He leaves some awfully big shoes to fill. He likes to point out that he could do for me what no one else can do, and that is make me the senior Senator from Illinois. While I look forward to being the senior Senator from this great State, at the same time I recognize that it is an awfully tall bill to fill, to live up to the standards and live up to the kind of ethic that PAUL SIMON has always represented.

He has been a public servant of the first order. He started having town meetings in our State and, quite frankly—he has had a couple thousand of them—it is going to take me a little while to catch up with the number of townhall meetings that PAUL SIMON had in the State. He also had townhall meetings here. In fact, when I came to the Senate and joined him with the every-Thursday townhall meetings in which we speak to the people who drop by on the issues, this was an innovation by PAUL SIMON that, frankly, was absolutely consistent with his reaching out, with his spreading the gospel of democracy to the people who came to visit their Capitol.

So, in closing, Mr. President, I would like to say that it is altogether appropriate that PAUL SIMON comes from and represents the State of Illinois. Our State has been long known as ''the land of Lincoln,'' and we are very proud of that. Illinois' greatest citizen made a monumental contribution to our country in very difficult times, but I think it is absolutely consistent with his legacy that our State has been served by a giant in the nature and of the name of PAUL SIMON.

He follows in the best Illinois tradition: someone who is committed to keeping the United States of America the greatest country in the world, someone who has devoted the full measure of his talent and his energy to his State and to his country.

So it is with great love and affection that I wish him well in his retirement, as I am sure that my colleagues do as they demonstrated on this floor this afternoon.

I thank the Chair, and I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I want to thank my distinguished colleague from Illinois, Senator CAROL MOSELEY-BRAUN, for the eloquent statement she has made about our departing colleague, the honorable PAUL SIMON, the senior Senator from her State.

I also want to thank, Mr. President, our distinguished colleague, the junior Senator from Illinois, for the role that she has played in making this so-called bow tie day in honor of PAUL SIMON, not only a reality, but I think certainly, Mr. President, a success.

I must say, I have been asked several times during the course of the afternoon—because I think I have gotten a little bit too much attention or credit for this, and I should not get any—but I was sitting at an airport some months ago, visiting with my friend and colleague from the State of Florida, Senator CONNIE MACK, and I do not know exactly how we started talking about PAUL SIMON of Illinois, but something came up, and CONNIE MACK said to me, he said, ''You know, we ought to do something to honor PAUL SIMON. What a grand person. What a distinguished American. What an opportunity we have had to serve with this man, PAUL SIMON.''

We started thinking out loud, sitting in the airport, waiting for the plane. And the plane did not come, and it did not come, so we had idea after idea. Finally, CONNIE MACK said, ''You know what we ought to do? We all ought to, before PAUL SIMON leaves the Senate, we ought to wear a bow tie in his honor because it is such a symbol of this great man.'' So I said, ''CONNIE MACK, you have come upon a great idea.'' I raced to the telephone and called my friend in Little Rock, Mr. Bill Humble, and I said, ''Bill, can your tie plant make us up 100 bow ties?'' He said, ''We'll be glad to.''

And so with that, and then with the help, the wonderful help of Senator CAROL MOSELEY-BRAUN, who helped arrange the disbursing of the ties today, and keeping this a secret, even almost from all of the PAUL SIMON staff, and almost Mrs. Simon, Jeanne Simon—I did notice she was here today to see the thunderous applause, the thunderous ovation that her husband, PAUL SIMON, received by his colleagues, I would say about 95 percent of those colleagues wearing a bow tie to pay tribute to our colleague. So it has been a nice day. It was a nice way to express our affection and our respect for PAUL SIMON of Illinois. I have always admired him.

I have admired him from afar when he was a Member of the House of Representatives, when he was doing so much with children's issues, when he was championing the cause of education in our society, when he was concerned about the breakdown of the family unit, which he was talking to us about, as Senator MOYNIHAN was talking to us about decades ago, about this breakdown, and the perseverance with which he approached each and every issue that he undertook. And I am so grateful that I have had the privilege of not only sitting alongside this man, but also literally sitting behind Senator PAUL SIMON's desk for these numbers of years.

Mr. President, it is time for those of us who are departing, like my colleague and wonderful friend from Wyoming, Senator SIMPSON, who I came to the Senate with in 1979, it is time now, speaking of desks, for us to clean out our desks and take those humble belongings that we have in these desks home with us or wherever we might go, and to inscribe our name as occupant of the desk.

Many in our country might not know the history of these beautiful Senate desks in the Senate Chamber, but I hope all Americans will know that each Senator who occupies a particular desk will have his or her name inscribed in that desk for posterity and for all future generations to know.

Finally, Mr. President, back to our friend, Senator SIMON, if I were speaking to a political science class—and I think come the next semester at the University of Arkansas I might be speaking to one or two of those classes—if I am ever asked the question by one of those political science students as to how to pattern their life into becoming a politician, and a public servant, ultimately a public official, I think I would say to that class that you have to look no further than the life, the personal life and the political life, of PAUL SIMON of Illinois, because I think with his life he has made a statement, just like we on the floor today made a statement by wearing a PAUL SIMON bow tie.

PAUL SIMON has made a statement for the last three decades that I think will be an inspiration to all who believe in this system of government and to all who believe that we can make this system of government better.

A lot of people have so-called ''lost faith'' with our system of government, with politicians and with Washington, and what have you. But I think I would say this—and I am proud that my colleague from Illinois is here, my colleague from Wyoming, and our new colleague from Tennessee, and the distinguished occupant of the Chair from Idaho—I would just say that I think

that PAUL SIMON, perhaps as much as any Senator that I have ever had the privilege of serving with, has humanized government. He has humanized politics. And he has humanized politicians. I think he has done it with grace. He has done it with vision. And he has done it I think with joy, because that joy exudes from PAUL SIMON. The happiness of his profession, the happiness of his work, I think will live long after PAUL SIMON has left these Chambers of the U.S. Senate.

So, Mr. President, with that, we say thank you, PAUL SIMON, thank you for being our friend, thank you for being truly a great U.S. Senator and a great Member of this body and a great friend of us all. Mr. President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I, too, will join in the great remarks about my friend PAUL SIMON and thank the Senator, soon-to-be senior Senator from Illinois. My time as senior Senator has been so fleeting that I am hardly able to recall it because I served as the junior Senator to Malcolm Wallop, my friend from Wyoming. So enjoy the term indeed, I say to my colleague from Illinois. Do it well.

And to my friend, Senator PRYOR, who came here with me—and he and his wife Barbara have become very dear and special friends of ours—he is a most genial, generous, kind man, and a friend to his friends. If they rallied him in time of need, it would only be because in his life and her life they have done just exactly that to all around them.

With regard to PAUL SIMON, you have to understand that I met PAUL when we were State legislators together in 1971. There was a conference on outstanding State legislators, and here were PAUL SIMON and myself, he of the Illinois Legislature, me of the Wyoming Legislature, honored. They had two from each State. I was one; PAUL was one. The first day I met him, I had a bow tie on because PAUL and I had to at least know how to tie our own bow ties. There are people in here today that have no concept of how to tie a bow tie. In fact, some of them have difficulty with even a mechanical tie is my experience seeing it today. But we laughed about that over the years.

But we are not in any way doing anything but paying tribute to this man who, with all the accolades we have heard, they are all true—honest, direct, thoughtful, steady. I know. I served with him. He served on my subcommittee on immigration, refugee policy, always attentive, always asking, always, always having a query and inquiring and saying, ''Well, why is this? What is the purpose of this?''

And so, indeed, he and Jeanne, we wish them Godspeed. We will see more of them as we go on to snatch more of our own lives for ourselves rather than in this place and leave those tasks to our brothers and sisters and knowing what is required of them and both of us ready to move on to other things.

I could not have had a finer colleague, whether it was working on the issues of fraudulent marriage—PAUL handled that while I was chairman—or the balanced budget. We all know the things he does. We all know who he is. That is why we did this tribute today. No one else will have a tribute like that in the U.S. Senate—how we would honor one of our colleagues in any way as we did today and see the look on his face and the delight and that smile that is so very special. He knew that and we knew that. I thought how appropriate to honor him in that way. None of us will ever receive such a wonderful accolade, with whimsy, humor, and good spirit. I commend all those who brought that to pass.

JAN PAULK

Mr. SIMPSON. A note about Jan Paulk. She is a wonderful woman and has been such a help to us in our Senate activities as we travel and do our official duties, visiting with Prime Ministers, Presidents, and State funerals and all the rest.

Jan Paulk, a very engaging woman, was hospitable, patient beyond words, and a fine companion on journeys, some with great sadness, some pomp and circumstance, and there was Jan, always assisting everyone, including spouses, and being genial, kind, and courteous in every way.

I have never seen her when she was out of sorts, and she certainly could have been on many occasions. My wife and I wish her well. Indeed, she is a very wonderful woman. There is much more for her to do, and she will do it. I am very pleased for her about her new task. She will enjoy all and she will do it exceedingly well. We wish her Godspeed.

I will now yield the floor and signify that the Senator from Tennessee, my friend, Senator Dr. BILL FRIST, will speak on a very emotional issue, partial-birth abortion. At the conclusion of his remarks we will go to the closing of the Senate session.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

PARTIAL-BIRTH ABORTION

Mr. FRIST. Mr. President, I rise today as a physician concerned about women, concerned about women's health, concerned about safe medical practices. I rise to strongly support the ban on partial-birth abortions. My colleagues in this Chamber already know my position that this procedure called a partial-birth abortion is both medically unnecessary and unnecessarily brutal and inhumane.

Mr. President, every baby deserves to be treated with respect, with dignity and with compassion. This procedure, which has been banned in a bipartisan, in a historic way by the U.S. Senate and by the House of Representatives, very deeply offends our sensibilities as human beings.

I need to make very clear that those of us who oppose this very specific, very explicitly defined procedure care very deeply about women and about the horrific situations they sometimes face, but how can we answer to our children, to our families, to our constituents back home and to ourselves if we continue to allow babies to be aborted through this partial-birth abortion procedure, especially—and I think in some of the remarks earlier today it was made clear—especially in light that this procedure, this specific, well-defined procedure is medically unnecessary.

As the Senate's only physician, the only physician in this body, as the only board-certified surgeon in this body, I feel compelled to address the issue surrounding the medical misinformation that is laid on our desks, that you hear on the floor of this body, that you read in the newspaper each day.

There are really three medical myths that each of us in preparing to vote 2 days from now must address. There are medical myths that surround potential harm to the mother, to affecting the welfare of the mother, and they are as follows:

Myth No. 1: We have heard it said in this body that this is an accepted and safe medical procedure, often necessary to save the reproductive health and/or life of the mother. I have talked to physicians who perform emergency and elective late-term abortions, both in Tennessee and around the country. Many of them had not heard of this specific procedure, but all of them, after hearing it—and I went back to the original papers, which I will share—all of them that I talked to, condemned it as medically unnecessary—meaning there are in those very rare situations alternative types of therapy—or even dangerous, dangerous, to the health of the mother. In every case of severe fetal abnormality or medical emergency, there are other alternative procedures that will preserve the life of the mother and the mother's reproductive health.

Dr. Hern, the author of a textbook entitled ''Abortion Practice,'' which is a widely accepted text on abortion, disputed the claim that this is a safe procedure in an interview with the American Medical News. He cited, for example, concerns about turning the fetus into a breach position—which is part of this procedure—turning the baby around, which can cause placental abruption, or separation of the placenta, and amniotic fluid embolism.

In an effort to combat much of the medical and scientific misinformation surrounding this issue, a number of physicians and specialists and medical spokespeople have gotten together, formed a coalition to address some of the medical errors, the medical misinformation, that have been put forward. Dr. C. Everett Koop, a former Surgeon

General is a member of this coalition. He has also stated that this procedure, in his clinical experience, ''is not a medical necessity for the mother.''

I hesitate to go into the procedure, but, again, as a physician, what I turn to is the procedure itself as defined in the medical literature. So I turn to a presentation called Dilation and Extraction for Late Second Trimester Abortion, written and presented by Dr. Martin Haskell, presented at the National Abortion Federation risk management seminar, September 13, 1992. This is the actual paper that was presented. As with any medical paper, there is an introduction, a background, a patient selection, a description of the patient operation. Without going into the entire description of the operation, let me quote from this medical presentation presented at a medical scientific meeting.

While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt carved Metzenbaum scissors in the right hand [the Metzenbaum scissors are scissors about that size, typically used in surgery.] He carefully advances the tip carved down along the spine and under his middle finger until he feels it contact the base of the skull with the tip of his middle finger.

Reassessing proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening.

The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.

The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

I share this because I have other descriptions, and I have seen the graphics. And I always wonder. ''What filter does this go through before it gets to the floor of the U.S. Senate, or to the House, or to the newspaper?'' And these are the exact words used in the oral presentation at a medical meeting of this procedure by one of its proponents.

Myth No. 2: This procedure is only performed in cases of severe fetal abnormality when the fetus is already dead, or will die immediately after birth.

Mr. President, this falsehood has been repeated again and again and again. It has been used as one of the principal defenses of the veto handed down by President Clinton. But the record clearly shows that this is false. Dr. Martin Haskell, one of the best known practitioners of this procedure, this partial birth method, told American Medical News that:

Eighty percent of his partial-birth abortions were done for ''purely elective reasons.''

Another doctor testified before Congress that he has performed partial-birth abortions on late term babies simply because they had a ''cleft lip.''

Myth No. 3: The fetus is already dead or insensitive to pain during this procedure, which I just described, because of the anesthesia administered to the mother.

Of all the misconceptions of this debate this has some of the most troubling implications for women's health. Some of the documents distributed to this body have stated ''The fetus dies of an overdose of anesthesia given to the mother intravenously.''

Mr. President, this is not true. If it were true, then women who undergo elective operations during pregnancy—even life-saving procedures done under anesthesia—would probably avoid it because of fear of danger to that fetus. And it is wrong I think to scare women to endanger their health in order to defend an unnecessary procedure.

Let me go back to the paper again, the medical scientific paper, because I forgot to mention that in closing of the paper, in the summary, the last paragraph on page 33, which says:

In conclusion, dilation and extraction—the partial birth procedure I just described—is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

So even the author says it is an alternative method. This procedure is medically unnecessary.

I have heard from a number of my fellow colleagues who have been outraged at the blatant misinformation campaign that has come forward.

The American Society of Anesthesiologists has issued repeated statements contradicting the argument of fetal death or coma due to anesthesia given to the mother.

Mr. President, I know that this issue does stir up a lot of emotion. But I think we do need to be careful with the facts. The facts are this procedure is indefensible from a medical standpoint. There is never an instance where it is medically necessary in order to save the life of the mother or her reproductive health.

I know a number of my colleagues oppose this bill not because they support the procedure but on the grounds that they fear further and further Government intervention into the practice of medicine. And I too have a fear of excessive Federal Government intervention into that practice of medicine. But I do think there comes a time when individuals, a few individuals on the fringe, force us to draw a line to protect innocent human life from the sort of brutality which I just described to you out of the literature. And I truly feel, Mr. President, that this is one of those times.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, parliamentary inquiry: Are we in morning business?

The PRESIDING OFFICER. Not at this moment.

BEST REGARDS TO SENATOR COHEN

Mr. LEVIN. Mr. President, I rise briefly to extend my best regards to Senator BILL COHEN as he leaves this body after 18 years in the distinguished service.

I have had the good fortune of serving with Senator COHEN on the Governmental Affairs Committee for the entire 18 years, and have also served with him on the Subcommittee of Oversight of Government Management on that committee. Sometimes he was the chairman and other times I was the chairman during this 18-year period. But in either case we were always able to work together and I think make a real difference in the management of our Federal programs.

Several pieces of legislation stand out for me when I think back over our years of working together: First and foremost would be the Compensation in Contracting Act which Senator COHEN and I cosponsored and got enacted back in 1984. There is a current estimate that perhaps $40 to $50 billion in savings resulted from that law. That was a great piece of work that he had such an instrumental role in.

Then we worked on lobbying reform which has cleaned up our broken lobbying disclosure laws and has resulted in the registration of at least twice as many lobbyists and the disclosure of almost five times as much money being spent on lobbying activities than we knew of prior to this law being passed.

We have reauthorized the independent counsel law three times since it was first enacted in 1978.

We have struggled with many key issues, including maintaining the independence of the office but continuing to retain important checks. It is far from a perfect law but it has been worth the effort.

The list of joint efforts is long: Social Security Disability Reform Act of 1984; several reauthorizations of the Office of Government Ethics; oversight hearings on Wedtech; the FAA; Federal courthouse construction; Federal debarment practices; overloading; security; subcontractor kickbacks; hurry-up spending on medical labs; the United States Synfuels Corporation. We touched on almost every department of the Federal Government.

We have taken testimony from a broad cross-section of witnesses from hackers to slackers, from crooks to saints, auditors, parents, scientists, whistleblowers, meat inspectors, doctors, lawyers, and engineers. We have had witnesses behind screens, witnesses with distorted voices, and witnesses giving testimony by phone over a speaker. We have had hearings with all the press, and we have had hearings with no press. We have had hearings where everything worked, and we have had hearings where nothing seemed to work. We have had testimony that was funny, testimony that was tragic. We have addressed issues where the solutions were obvious and achievable, and where the answers were elusive.

But, Mr. President, Senator COHEN and I on this little subcommittee have lived through the thick and the thin of congressional life. Senator COHEN has done it with integrity, with intelligence, with humor, and with elan, and sometimes with some poetry.

He served the people of Maine and the people of this Nation with distinction. The Senate will be a lesser place when he leaves, and I will miss him as a friend and as a colleague. And we wish him nothing but the greatest happiness because he surely deserves it.

I thank the Chair. I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask that there now be a period for the transaction of morning business with statements limited to 5 minutes.

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

TRIBUTE TO DEAN SCHOFIELD

Mr. PRESSLER. Mr. President, today I would like to pay tribute to Dean Schofield from Pierre, SD. Dean is retiring this month after serving 35 years with the South Dakota Department of Transportation. Dean's tireless dedication to our State has been exemplary.

Dean's career began at the Department in 1961. His career steadily advanced over the years, from an assistant engineer to deputy secretary of the Department, the position he held when he announced his retirement.

Mr. President, during my 22 years in Congress, I have often relied on Dean's insight and suggestions as I've worked to promote South Dakota's transportation system. Indeed, Dean has always kept me and my staff aware of South Dakota's transportation priorities.

For example, I recall last year when Dean testified before a Surface Transportation and Merchant Marine Subcommittee hearing on rail service. Dean has also lent his expertise on highway and air service issues. His knowledge and contributions have been invaluable.

I congratulate Dean upon his retirement and offer my good wishes to both he and his wife, Delcie. Dean leaves behind big shoes to fill.

Mr. President, I ask unanimous consent a copy of an executive proclamation by the Governor of the State of South Dakota honoring Dean be printed in the RECORD immediately following my remarks.

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

EXECUTIVE PROCLAMATION, STATE OF SOUTH DAKOTA

Whereas, Jerald D. (Dean) Schofield, a graduate of Pierre High School, with a degree in Civil Engineering from South Dakota State University, started his career with the Department of Transportation on January 9, 1961 in Pierre as an Assistant Engineer, advancing to Project Engineer in 1968, Assistant Secondary Roads Engineer in 1973, Construction Program Engineer in 1974, Office Administrator of Planning and Programs in 1980, Director of the Division of Planning in 1986, and Deputy Secretary in 1989, the position he held until his retirement; and

Whereas, Dean has been recognized by his peers in national and regional organizations by being selected to serve on many committees as well as being selected as Secretary-Treasurer of the Western Association of State Highway & Transportation Officials (WASHTO); and

Whereas, Dean was deeply involved in development the Rural States' position and assisting in the passage of ISTEA, as well as many other Federal issues—his work (as often was the case) was accomplished in the background where he meticulously provided essential support information and was always willing and able to fill in on short notice; and

Whereas, Dean has been instrumental in developing the Department's Computerized Needs Data Book, the 5-Year Construction Program with its project prioritization system based on needs; the annual Strategic Plan and the legislative program; and

Whereas, Dean served on many Department, as well as several statewide and special Governor's Task Forces; and

Whereas, Dean brings a special, although quiet, skill to every area he encounters and has always encouraged other employees and has been a mentor and a model by his leadership and example of superior work ethic and commitment to family, profession, church and community; and

Whereas, Dean, through his knowledge, judgment, openness, integrity, thoroughness and organizational skills, has earned the respect of everyone he has dealt with, both within and outside the DOT, including legislators, county commissioners, governors, congressmen, landowners, fellow employees and ordinary highway users; and

Whereas, Dean has been voted, by unofficial poll, to be the Department's most considerate and genuinely caring employee and one who will be sorely missed by his many friends and co-workers; and

Whereas, after 35 years and 8 months of exemplary service to the state of South Dakota and the SDDOT, it is now time for Dean to retire to his home in Pierre with Delcie, his wife of 32 years, to devote his time to traveling, carpentry, gardening, attending athletic events, and enjoying his 3 children, Darrell, Darla, and Davis, and 5 grandchildren, Brittanie, Matthew, Nathan, Taylor, and Kaitlyn, and it is fitting and proper as Governor to recognize the many accomplishments of this outstanding South Dakotan:

Now, therefore, I, William J. Janklow, Governor of the State of South Dakota, do hereby proclaim August 30, 1996, as Dean Schofield Day in South Dakota, and I join with Dean's family, friends and co-workers in wishing him a fulfilling and happy retirement.

CONGRATULATIONS TO NELLIE NORTON SCHNELL CELEBRATING HER 100TH BIRTHDAY

Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Nellie Norton Schnell of Fayette, MO, who will celebrate her 100th birthday this Friday, September 27, 1996. She is a truly remarkable individual. Nellie has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of her life has meant much more, however, to the many relatives and friends whose lives she has touched over the last 100 years.

Nellie Norton Schnell's celebration of 100 years of life is a testament to me and all Missourians. Despite being visually and hearing impaired, Nellie organized and planned her own birthday celebration to take place this Friday at her grand-daughter's home in Boonville, MO. Her achievements are significant and deserve to be saluted and recognized. I would like to join her many friends and relatives in wishing her health and happiness in the future.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:56 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 following bills, in which it requests the concurrence of the Senate:

H.R. 1281. An act to express the sense of the Congress that it is the policy of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

H.R. 1720. An act to reorganize the Student Loan Marketing Association, to privatize the College Construction Loan Insurance Association, to amend the Museum Services Act to include provisions improving and consolidating Federal library service programs, and for other purposes.

H.R. 2988. An act to amend the Clear Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency Rules.

H.R. 3153. An act to direct the Secretary of Transportation to issue a final rule relating to materials of trade exceptions from hazardous materials transportation requirements.

H.R. 3877. An act to designate the United States Post Office building located at 351 West Washington Street in Camden, Arkansas, as the ''David H. Pryor Post Office Building''.

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

S. 811. An act to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop facilities, and for other purposes.

At 5:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate.

H.R. 2508. An act to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

H.J. Res. 193. Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact.

H.J. Res. 194. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 2100. A bill to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

S.J. Res. 63. Joint resolution making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–4158. A communication from the Deputy Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a rule entitled ''Prevailing Rate Systems'' (RIN3206–AH58); to the Committee on Governmental Affairs.

EC–4159. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the list of General Accounting Office reports and testimony for August 1996; to the Committee on Governmental Affairs.

EC–4160. A communication from the Director of the U.S. Office of Government Ethics, transmitting, pursuant to law, the rule entitled ''Standards of Ethical Conduct for Employees of the Executive Branch'' (RIN3209–AA04); to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SIMPSON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1711. A bill to establish a commission to evaluate the programs of the Federal Government that assist members of the Armed Forces and veterans in readjusting to civilian life, and for other purposes (Rept. No. 104–371).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Joseph J. Redden, 000–00–0000.

The following-named officers for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of title 10, United States Code, sections 8374, 12201, and 12212:

To be brigadier general

Col. William J. Boardley, 000–00–0000, Air National Guard of the United States.
Col. Walter R. Ernst II, 000–00–0000, Air National Guard of the United States.
Col. Dennis A. Higdon, 000–00–0000, Air National Guard of the United States.
Col. Enrique J. Lanz, 000–00–0000, Air National Guard of the United States.
Col. James A. McDevitt, 000–00–0000, Air National Guard of the United States.
Col. Joseph I. Mensching, 000–00–0000, Air National Guard of the United States.
Col. Fisk Outwater, 000–00–0000, Air National Guard of the United States.
Col. Lawrance L. Paulson, 000–00–0000, Air National Guard of the United States.
Col. Maxey J. Phillips, 000–00–0000, Air National Guard of the States.
Col Wallace F. Pickard, Jr., 000–00–0000, Air National Guard of the United States.
Col. Richard A. Platt, 000–00–0000 Air National Guard of the United States.
Col. John C. Schnell, 000–00–0000, Air National Guard of the United States.
Col Allen J. Smith, 000–00–0000 Air National Guard of the United States.
Col. Paul J. Sullivan, 000–00–0000, Air National Guard of the United States.
Col. Michael H. Tice, 000–00–0000, Air National Guard of the United States.

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under title 10, United States Code, sections 6112(a) and 624:

To be brigadier general

Col. John P. Abizaid, 000–00–0000, U.S.Army.
Col. Daniel L. Montgomery, 000–00–0000, U.S. Army.

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a);

To be brigadier general

Col. Lloyd E. Krase, 000–00–0000.

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be brigadier general

Col. Paul J. Glazar, 000–00–0000.

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Douglas D. Buckholz, 000–00–0000, U.S. Army.

The following-named Army Competitive Category officers for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be brigadier general

Col. Anders B. Aadland, 000–00–0000.
Col. Lawrence R. Adair, 000–00–0000.
Col. Robert E. Armbruster, Jr., 000–00–0000.
Col. Raymond D. Barrett, Jr., 000–00–0000.
Col. Joseph L. Bergantz, 000–00–0000.
Col. William L. Bond, 000–00–0000.
Col. Colby M. Broadwater III, 000–00–0000.
Col. James D. Bryan, 000–00–0000.
Col. Kathryn G. Carlson, 000–00–0000.
Col. John P. Cavanaugh, 000–00–0000.
Col. Richard A. Cody, 000–00–0000.
Col. Billy R. Cooper, 000–00–0000.
Col. John M. Curran, 000–00–0000.
Col. Peter M. Cuviello, 000–00–0000.
Col. Dell L. Dailey, 000–00–0000.
Col. John J. Deyermond, 000–00–0000.
Col. James M. Dubik, 000–00–0000.
Col. John P. Geis, 000–00–0000.
Col. Larry D. Gottardi, 000–00–0000.
Col. James J. Grazioplene, 000–00–0000.
Col. Robert H. Griffin, 000–00–0000.
Col. Richard A. Hack, 000–00–0000.
Col. Wayne M. Hall, 000–00–0000.
Col. William P. Heilman, 000–00–0000.
Col. Russel L. Honore, 000–00–0000.
Col. James T. Jackson, 000–00–0000.
Col. Terry E. Juskowiak, 000–00–0000.
Col. Geoffrey C. Lambert, 000–00–0000.
Col. William J. Leszczynski, 000–00–0000.
Col. Wade H. McManus, Jr., 000–00–0000.
Col. Richard J. Quirk III, 000–00–0000.
Col. William H. Russ, 000–00–0000.
Col. Donald J. Ryder, 000–00–0000.
Col. John K. Schmitt, 000–00–0000.
Col. Walter L. Sharp, 000–00–0000.
Col. Toney Stricklin, 000–00–0000.
Col. Frank J. Toney, Jr., 000–00–0000.
Col. Alfred A. Valenzuela, 000–00–0000.
Col. John R. Vines, 000–00–0000.
Col. Craig B. Whelden, 000–00–0000.
Col. Roy S. Whitcomb, 000–00–0000.
Col. Robert Wilson, 000–00–0000.
Col. Walter Wojdakowski, 000–00–0000.
Col. Joseph L. Yakovac, Jr., 000–00–0000.

The following-named officer for reappointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Jay M. Garner, 000–00–0000.

The following U.S. Army National Guard officer for promotion in the Reserve of the Army of the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be brigadier general

Col. Frank A. Avallone, 000–00–0000.

(The above nominations were reported with the recommendation that they all be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 12 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the CONGRESSIONAL RECORDS of November 7, 1995, December 11, 1995, July 17, September 9, 13, and 10, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

In the Navy there are five appointments to the grade of lieutenant (list begins with Brian G. Buck) (Reference No. 715–2).

In the Navy there are four promotions to the grade of lieutenant commander (list begins with Jeffry L. Bennett) (Reference No. 768–2).

In the Navy there are 630 promotions to the grade of commander (list begins with Rufus S. Abernethy III) (Reference No. 1204).

In the Navy there are 1,120 promotions to the grade of lieutenant commander (list begins with Glen F. Abad) (Reference No. 1295).

In the Marine Corps there is one promotion to the grade of major (Robert T. Bader) (Reference No. 1300).

In the Marine Corps there is one promotion to the grade of major (Wayne D. Szymczyk) (Reference No. 1301).

In the Air Force there is one promotion to the grade of colonel (Wendell R. Keller) (Reference No. 1310).

In the Air Force there are 18 appointments to the grade of second lieutenant (list begins with Sean P. Abell) (Reference No. 1311).

In the Air Force Reserve there are 17 promotions to the grade of lieutenant colonel (list begins with Randall R. Ball) (Reference No. 1312).

In the Air Force Reserve there are 35 promotions to the grade of lieutenant colonel (list begins with James E. Ball) (Reference No. 1313).

In the Army Reserve there are 25 promotions to the grade of colonel (list begins with Ernest R. Adkins) (Reference No. 1314).

In the Army Reserve there are 44 promotions to the grade of lieutenant colonel (list begins with William A. Ayers, Jr.) (Reference No. 1315).

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 7, 1995, December 11, 1995, July 17, September 9, 13, and 19, 1996, at the end of the Senate proceedings.)

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. THURMOND (for himself, Mr. FAIRCLOTH, Mr. LOTT, Mr. HELMS, and Mrs. KASSEBAUM):

S. 2104. A bill to amend chapter 71 of title V, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FRIST:

S. 2105. A bill to amend chapter 29 of title 35, United States Code, to provide for a limitation on patent infringements relating to a medical practitioner's performance of a medical activitiy; to the Committee on the Judiciary.

By Mr. MCCONNELL:

S. 2106. A bill to amend the United Nations Participation Act of 1945 to prohibit the placement of members of the United States Armed Forces under the command, direction, or control of the United Nations, and for other purposes; to the Committee on Foreign Relations.

By Mr. THOMAS (for himself, Mr. ROBB, and Mr. MCCAIN):

S. 2107. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. ASHCROFT, Mr. BIDEN, Mr. BREAUX, Mr. COATS, Mr. DEWINE, Mr. FAIRCLOTH, Mr. FORD, Mr. GRASSLEY, Mr. HATFIELD, Mr. INHOFE, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. PRESSLER, and Mr. THURMOND):

S. 2108. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE:

S. 2109. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

S. 2110. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

By Mr. MCCAIN:

S. 2111. A bill to amend the Act commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'', and for other purposes; to the Committee on Indian Affairs.

By Mr. FORD:

S. 2112. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, Kentucky, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 2113. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

By Mr. AKAKA:

S. 2114. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SHELBY:

S. 2115. A bill to protect and enhance sportsmen's opportunities and conservation of wildlife, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2116. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for Mr. HATFIELD):

S.J. Res. 63. A joint resolution making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes; read the first time.

By Mr. DODD (for himself, Mr. D'AMATO, Mr. WARNER, Mr. MOYNIHAN, Mr. BRADLEY, Mr. BYRD, Mrs. FEINSTEIN, Mr. FORD, Mr. HEFLIN, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. PELL, Mr. REID, Mr. ROBB, Mr. SIMON, Mr. CHAFEE, Mr. COHEN, Mr. DEWINE, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. MACK, Mr. MURKOWSKI, and Mr. THURMOND):

S.J. Res. 64. A joint resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship; 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. FORD:

S. Res. 296. A resolution to permit disabled Senate employees with the privilege of the Senate floor to use supporting services on the floor; to the Committee on Rules and Administration.

By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. Res. 297. A resolution referring S. 558, entitled ''A bill for the relief of retired SFC James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes,'' to the Chief Judge of the U.S. Court of Claims for a report on the bill; to the Committee on the Judiciary.

By Mr. BYRD (for himself, Mr. LOTT, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mrs. FRAHM, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 298. A resolution designating room S. 131 in the Capitol as the ''Mark O. Hatfield Room''; considered and agreed to.

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

S. Res. 299. A resolution extending the provisions of Senate Resolution 149 of the 103d Congress, 1st session, relating to the Senate Arms Control Observer Group; considered and agreed to.

By Mr. WELLSTONE (for himself, Mr. INOUYE, Mrs. MURRAY, Mr. DODD, Mrs. FRAHM, Mr. REID, Mr. GLENN, Mr. EXON, Mrs. BOXER, and Mr. KENNEDY):

S. Res. 300. A resolution to designate the week of November 3, 1996, as ''National Shaken Baby Syndrome Awareness Week''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. LOTT, Mr. HELMS, and Mrs. KASSEBAUM):

S. 2104. A bill to amend chapter 71 of title V, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes; to the Committee on Governmental Affairs.

UNION ACTIVITIES LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a very important piece of legislation that would affect every American taxpayer. This measure would prohibit Federal funds

from being used to pay Federal employees while working on union business.

Mr. President, I was shocked by a recent Government Accounting Office [GAO] report to Congress concerning union activities at the Social Security Administration [SSA]. I understand that Federal employees have the right to be represented by a union. However, I completely disagree that the American taxpayer should foot the bill for this representation.

The results of the GAO report are astounding and very disturbing. The GAO reported that over 413,000 hours were spent by Federal employees last year on union activities at the SSA. This cost the American taxpayers approximately $12.6 million in salaries and expenses. This does not even count the amount of time management spent answering union concerns. The cost involved for management to respond may be double the nearly $13 million we spent on the union representatives. The GAO identified 1,800 SSA employees who are authorized by the union to spend time on SSA union activities; I repeat, Mr. President, 1,800 Federal employees, paid by the U.S. Government to do union work. Currently, 146 of those representatives are considered to be full-time. In other words, 146 Federal employees are spending 100 percent of their time at the Social Security Administration working on union activities, not serving Social Security beneficiaries and the taxpayer, but doing full-time union work. These figures are for just one agency. In 1993, President Clinton issued Executive Order 12871, which requires agencies to involve labor organizations as full ''partners'' with management in identifying problems and creating solutions. In the time that this Executive order has been in effect, the cost to the American taxpayer for union activity at SSA alone has more than doubled. Further, Federal employees who are performing union work full-time has jumped from 80 to 146. There are still some 1,654 additional SSA employees working part-time on union activities. Mr. President, this is outrageous.

As I stated, these figures are only for the SSA. I have, therefore, requested that the GAO prepare a similar report to the one conducted at SSA, which would address union activity within the entire Federal Government. It is my feeling that the aggregate numbers will be equally as staggering and shocking as those found at SSA.

I am pleased to be a cosponsor of legislation, authored by my good friend, Senator FAIRCLOTH, which would prohibit using money from the Social Security and Medicare trust funds for union activities at SSA and the Department of Health and Human Services. However, I think we should go even further. No Federal money should be used to subsidize union work within any Government agency. Our Government workers should be attending to the business for which they were hired while on the American taxpayer's time. The union representatives at Federal agencies were not hired to do the work of the unions. They were hired to perform specific duties pertaining to the official business of the Federal agency that employs them.

The legislation I am introducing would ensure that union activities at the Federal level are not financed by the already heavily burdened American taxpayer. Mr. President, let the unions pay the salaries and expenses of those who perform union work; and let our tax money be used to do the work of the American people.

The able Majority Leader, Senator LOTT, Senators FAIRCLOTH, HELMS, and KASSEBAUM are original cosponsors. I invite my other colleagues to join us in support of this important measure to correct an absolute misuse of Federal funds.

I further ask unanimous consent that the GAO report regarding union activities at the Social Security Administration be included in the RECORD.

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

UNION ACTIVITY AT THE SOCIAL SECURITY ADMINISTRATION

Mr. Chairman and Members of the Subcommittee: I am pleased to be here today to discuss the time spent on union activities at the Social Security Administration (SSA). Union activities generally include representing employees in complaints against management, bargaining over changes in working conditions and the application of personnel policies, and negotiating union contracts with management. The federal government pays its employees' salaries and expenses for the portion of time they are allowed to spend on union activities; it also provides other support such as space, supplies, equipment, and some travel expenses.[1] Federal union members generally cannot bargain over wages and cannot strike, and federal employees are not required to join unions and pay union dues in order to be represented by the union.

Given the budget constraints facing federal agencies, the Subcommittee expressed concern about the amount of time and expenses devoted to union activities and paid for by the federal government. The Subcommittee expressed particular concern about SSA unions regarding the amount of money paid for union activities out of the Social Security trust funds.

As requested, I will focus my remarks on the history of union involvement in the federal government, the statutory basis for the federal government to pay employee salaries and expenses for union activities, and the amount of time spent on and costs associated with union activities at SSA and how the agency accounts for it. The Subcommittee also asked us to comment on how the amount of time and money spent at SSA on union activities compares with what is spent at other large federal agencies, such as the Department of Veterans Affairs (VA) and the Internal Revenue Service (IRS), and how it compares with the amount spent by the U.S. Postal Service, which operates more like a private-sector company. As requested, we have also provided information on union activities in the private sector.

In response to your request, we began our work at SSA in August 1995. To develop this information, we interviewed management and union officials in SSA headquarters and 4 of SSA's 10 regional offices. We also reviewed union contracts, payroll records, and time-reporting forms. To determine the amount of time spent on union activities, we reviewed yearly reports of time spent on union activities and verified the time reported by reviewing source documents at one region and selected headquarters components. We supplemented our field work with telephone calls to three additional SSA regions to verify that similar time reporting procedures were used.

We also met with union and management officials at VA, IRS, and the Postal Service to compare their union time and costs with SSA's. VA does not operate a national union time-reporting system and therefore could not provide data on union activities. Consequently, we are not providing any information concerning VA. At IRS and the Postal Service, we obtained available information on union activity from headquarters and selected field facilities but did not verify its accuracy. We also discussed the role and function of unions in the federal government with the Office of Personnel Management (OPM) and discussed the private-sector use of official time for union activities with labor-relations experts at various trade associations, colleges, and universities. We also reviewed a 1992 Bureau of National Affairs publication that summarized trends in labor/management contracts for private industry. Finally, to determine the types of contract provisions that exist in private industry with regard to the use of official time, we reviewed ten contracts on file at the Bureau of Labor Statistics.

In summary, federal labor/management relations were formalized by executive order in the early 1960s.[2] In 1962, an executive order permitted federal agencies to grant official time for certain meetings between management and union representatives, at the discretion of the agency. The management control prevalent when the first executive order was issued has evolved over time, and today unions operating at federal government agencies have significant involvement in operational and management decisions. The use of official time, which is authorized paid time off from assigned duties for union activities, has become a routine method of union operation in the federal government. OPM officials told us that currently no governmentwide requirement exists to capture or report the amount of official time charged to union activities. They further noted that managers and employees would spend time interacting on personnel and working condition matters even if there were no unions operating at agencies.

We determined that over the last 6 years, the time spent on union activities at SSA has grown from 254,000 to at least 413,000 hours, at a cost to SSA's trust funds of $12.6 million in 1995 alone. That is, SSA currently pays the equivalent of the salaries and expenses of about 200 SSA employees to represent the interests of the approximately 52,000 employees represented by unions at SSA. This cost represents a portion of the $5.5 billion SSA incurred in administrative expenses for fiscal year 1995.

In addition, SSA has reported to the Congress that the number of full-time union representatives, those devoting 75 percent or more of their time to union activities, grew from 80 to 145 between 1993 and 1995. We found, however, that the reporting system for collecting such data does not adequately track the number of union representatives charging time to union activities or the actual time spent. Consequently, we conducted a limited verification of the hours spent on union activities reported by SSA and found

[1] Footnotes at end of article.

that time spent on union activities was underreported. While SSA is currently developing a new system to more accurately track the time spent on union activities, it plans to implement this system to replace only the automated reporting system for union representatives in the field offices and teleservice centers. SSA is not planning to improve the less accurate manual time-reporting system for its other components.

Under the terms of the current SSA union contract negotiated in 1993, the selection of union representatives and the amount of time they spend on union activities are determined by the union without the consent of local managers. We found that over 1,800 designated union representatives in SSA are authorized to spend time on union activities, although most of the time spent is by SSA's 146 full-time representatives. Some SSA field managers told us that their having no involvement in decisions about how much time is spent by individuals and who the individuals are causes problems in managing the day-to-day activities of their operations. Union representatives, on the other hand, told us that the time they use is necessary to fully represent the interests of their coworkers.

SSA reported that it paid for 404,000 hours for union activities in fiscal year 1995, as compared with 442,000 hours reported by IRS in fiscal year 1994, the most recent information available. The Postal Service reported that 1.7 million hours spent on union activities in fiscal year 1995 related to grievances. This Postal Service estimate does not include substantial additional time spent on other types of union activities and paid for by either the unions or the Postal Service.

With regard to union activity in private industry, some employers pay some or all of the salaries and expenses of union representatives, as the federal government does, while others do not.

BACKGROUND

Labor unions are groups of employees organized to bargain with employers over such issues as wages, hours, benefits, and working conditions. The current federal labor/management program differs from nonfederal programs in three important ways: (1) federal unions bargain on a limited number of issues—bargaining over pay and other economic benefits is generally prohibited,[1] (2) strikes and lockouts are prohibited, and (3) federal employees cannot be compelled to join, or pay dues to, the unions that represent them. At SSA, employees are represented by three unions: the American Federation of Government Employees (AFGE), which represents over 95 percent of SSA employees who are represented by a union; the National Treasury Employees Union (NTEU); and the National Federation of Federal Employees (NFFE). Of SSA's 65,000 employees, about 52,000 nonsupervisory employees are represented by the unions, and about 47 percent of those represented are dues-paying union members. Union operations at SSA are governed by a national AFGE contract and six other union contracts with individual NTEU and NFFE components.

At the other federal organizations we visited, five unions had national collective bargaining agreements—four at the Postal Service and one at IRS. There were 751,000 employees represented by unions at the Postal Service and 97,000 at the IRS. Although other unions without national collective bargaining agreements represented Postal Service employees, the number of employees represented by these unions is less than one percent of all represented employees.

There are two main categories of official time, or government paid time spent on union activities, at SSA. The category known as ''bank time'' in field offices, and equivalent categories of official time in other components, refers to time that is negotiated and limited by SSA contracts with its unions. Bank time includes time spent on union- or employee-initiated grievances (complaints regarding any matter related to employment) as well as on union-initiated activities, such as training or representational duties. The category known as ''nonbank time'' in field offices, and equivalent categories in other components, generally refers to time spent on management-initiated activities; bargaining over changes to work assignments and working conditions (such as disallowed leave, employee work space, and equipment); management-initiated grievances; and any other time not specifically designated as bank time.

HISTORY OF UNION ACTIVITY IN THE FEDERAL GOVERNMENT

In 1912, the Lloyd-LaFollette Act established the right of postal employees to join a union and set a precedent for other federal employees to join unions. The government did little to provide agencies with guidance on labor relations until the early 1960s.

In 1962, President Kennedy issued Executive Order 10988, establishing in the executive branch a framework for federal agencies to bargain with unions over working conditions and personnel practices. The order established a decentralized labor/management program under which each agency had discretion in interpreting the order, deciding individual agency policy, and settling its own contract disputes and grievances.

In 1969, President Nixon issued Executive Order 11491, which established a process for resolving labor disputes in the executive branch by forming the Federal Labor Relations Council to prescribe regulations and arbitrate grievances. This order clarified language to expressly permit bargaining on operational issues for employees adversely affected by organizational realignments or technological changes.

In 1970, the Postal Reorganization Act brought postal labor relations under a structure similar to that applicable to companies in the private sector. Collective bargaining for wages, hours, and working conditions was authorized subject to regulation by the National Labor Relations Board. Like other federal employees, postal employees could not be compelled to join or pay dues to a union and could not strike.

The Civil Service Reform Act of 1978 provided a statutory basis for the current federal labor/management relations program and set up an independent body, the Federal Labor Relations Authority (FLRA), to administer the program. The act expanded the scope of collective bargaining—the process under which union representatives and management bargain over working conditions—to allow routine negotiation of some operational issues, such as the use of technology and the means for conducting agency operations.

In 1993, President Clinton issued Executive Order 12871, which articulated a new vision of labor/management relations, called ''Partnership.'' Partnership required agencies to involve labor organizations as full partners with management in identifying problems and crafting solutions to better fulfill the agency mission. It also expanded the scope of bargainable issues. This new arrangement was intended to end the sometimes adversarial relationship between federal unions and management and to help facilitate implementation of National Performance Review initiatives, which were intended to improve public service and reduce cost of government.

BASIS FOR PAYING SALARIES OF UNION REPRESENTATIVES

In 1962, Executive Order 10988 permitted federal agencies to grant official time, which is authorized paid time off from assigned government duties, for meetings between management and union representatives for contract negotiation, at the discretion of the agency. In 1971, Executive Order 11491 was amended to prohibit the use of official time for contract negotiation unless the agency and union agreed to certain arrangements. Specifically, the agency could authorize either (1) up to 40 hours of official time for negotiation during regular working hours or (2) up to one-half the time actually spent in negotiations. Over the next 4 years, a series of Federal Labor Relations Council decisions and regulations continued to liberalize the use of official time by allowing negotiations for the use of official time for other purposes.

The Civil Service Reform Act of 1978 authorized official time for federal agency union representatives in negotiating a collective bargaining agreement.[4] The act also permitted agencies and unions to negotiate whether union representatives would be granted official time in connection with other labor/management activities, as long as the official time was deemed reasonable, necessary, and in the public interest. The act continued to permit agencies to provide unions with routine services and facilities at agency expense. The act prohibited the use of official time for internal union business, such as solicitation of members.

TIME SPENT ON AND COST OF UNION ACTIVITIES AT SSA

SSA has a national system for reporting time spent on union activities by union representatives. This system is separate from the agency's time and attendance and workload reporting systems. Under this system, union representatives generally fill out and submit forms to their supervisors to account for union time. The hours reported on these forms are then periodically aggregated and submitted to SSA headquarters for totaling. This time-reporting system consists of two component systems that cover roughly an equal number of employees. The first is an automated system that captures time reported by union representatives working in field offices, which are the primary point of public contact with SSA, and at teleservice centers, where calls to SSA's national 800 number are answered. The second component is a manual system used to capture time spent by union representatives at SSA headquarters, as well as at Program Service Centers, the Office of Hearings and Appeals, and other components. Neither system is designed to capture either time spent by management on union-related matters or the number or names of individuals charging union time.

We conducted a limited verification of time captured in SSA's national reporting system at one SSA region and several headquarters components. By tracing source documents for union representatives' time to reported totals in the system, we discovered additional time not captured by the two systems. These gaps occurred primarily in the manual system and resulted from inaccurate reporting from the source documents, overlooked reports for some union representatives, and uncounted reports for some organizational units during certain reporting periods. We also verified that similar procedures were being used at three other regions, which could result in similar underreporting at these locations.

The overall time spent on union activities has grown steadily from 254,000 hours in 1990 to over 413,000 in 1995. This is the equivalent

of paying the salaries and other expenses of about 200 SSA employees to represent the 52,000 employees in the bargaining unit in 1995. SSA reported 254,000 hours of official time devoted to union activities in 1990, 269,000 in 1991, 272,000 in 1992, 314,000 in 1993, 297,000 in 1994, and 404,000 in 1995.

Because of limitations in SSA's reporting system, it is not possible to estimate actual time spent agencywide for any reporting period. Although it is likely that the actual time spent agencywide exceeds our estimates, our verification sample was not large enough to be statistically valid, so it cannot be extrapolated to all of SSA.

To determine what contributed to the increase in time spent on union activities, we developed information on the categories of time used.

SSA is currently developing a new system to better track and account for time spent on union activities in its field offices and teleservice centers. SSA says the purpose of this system is to provide management and the union with a more accurate and up-to-date accounting of time spent and the number of employees working on union activities and to ensure that time expended on certain activities does not exceed time allotted to the unions by the contracts. SSA, however, has no current plans to apply this new system to headquarters, the Program Service Centers, the Office of Hearings and Appeals, or other components using the manual system and did not explain why the agency made this decision.

SSA has no system for routinely calculating and reporting the cost of union activity, although it does provide annual estimates of the expenses for union activities to the Congress.

In order to determine the accuracy of these estimates, we tried to construct our own estimate of union-related costs. Because the salaries of union representatives make up most of the cost, we asked SSA for a list of current representatives and the time they spend on union activities. SSA estimated that there were about 1,600 union representatives, but the lists they maintained were outdated and incomplete. We identified about 1,800 union representatives who are currently authorized by the union to spend time on SSA union activities. SSA has also reported to the Congress that the number of full-time representatives—those spending 75 percent or more of their time on union activities—grew from 80 to 145 between fiscal years 1993 and 1995. We identified 145 current full-time representatives. The average annual salary in 1995 for the 146 full-time representatives was $41,970. In 1996, their salaries ranged from $23,092 to $81,217.

We estimate that the total cost to SSA for union activities of all representatives was about $12.6 million in 1995. We calculated the 1995 personnel cost to be $11.4 million by multiplying the average hourly salary of union representatives (about $27.64, including benefits) by the 413,000 hours we estimated the representatives spent on union activities.

The remaining $1.2 million in total SSA costs for union activities includes related travel expenses; SSA's share of arbitration costs; and support costs, such as supplies, office space, and telephone use. More specifically, in accordance with the union contracts, SSA pays for travel related to contract negotiations and grievance cases. In addition, it pays the travel and per-diem costs of all union representatives, whenever meetings are held at management's initiative. Union representation at major SSA initiatives, such as the reengineering of its disability programs, the National Partnership Council, and Partnership training, has added to travel and per-diem costs. In 1995, SSA estimated that it spent about $600,000 on travel-related expenses for union representatives. Union representatives told us that the union pays travel costs for union-sponsored training, internal union activities, and some local travel.

Under the national contract agreements, arbitration fees and related expenses are shared equally between the union and SSA. SSA reported that its share of arbitration costs was $54,000 for the 38 cases heard in 1995.

SSA also incurs other costs for telephones, computers, fax machines, furniture, space and supplies used by union representatives. In 1995, SSA estimated this cost at $500,000.

Regarding the amount of dues collected from union members, we determined that about $4.8 million was collected in 1995, mainly through payroll deduction. The unions use these funds for their internal expenses, which include the cost of lodging and transportation for union-provided training; the union's share of grievance costs; miscellaneous furniture, supplies, and equipment for some union offices; the salaries of the AFGE local president and his staff, who represent SSA headquarters employees; and a share of national union expenses.

The recent advent of Partnership activities in SSA will likely increase the time spent on union activities. The executive order on Partnership directs agencies to involve unions as the representatives of employees to work as full partners with management to design and implement changes necessary to reform government. Partnership activities at SSA are just starting, and we found that these limited activities are not routinely designated by SSA in its union time-reporting system. It is possible that time spent on Partnership activities is currently being reported in other activity categories. Consequently, as Partnership activities increase, we would expect the time devoted to them to also increase. However, this will be evident only if agency time-reporting systems adequately designate this time. It should be noted that many public and private organizations without unions are involving employees in quality management initiatives similar to Partnership activities.

SSA MANAGEMENT AND UNION VIEWS ON UNION TIME

SSA managers and union officials and representatives have offered their views about the use of official time for union activities. SSA managers, both individually and through their managers' associations, have expressed concern to us and to the Congress about limitations in their ability to effectively manage their operations and control the use of time spent by their employees under the current union/management arrangement. By contract, the assignment of union representatives and the amount of time they spend on union activities are determined by the union without the consent of local management.

Of the 31 field managers we interviewed, 21 said that it is more difficult to manage day-to-day office functions because they have little or no control over when and how union activities are conducted. They said that they have trouble maintaining adequate staffing levels in the office to serve walk-in traffic, answer the telephones, and handle routine office workloads. Additionally, 18 expressed concern about the amount of time they spend responding to union requests for information regarding bargaining and grievances. We did not verify the accuracy of any of the field managers' statements. We tried to quantify the time spent by managers on union related activities, but SSA had no time reporting system to track it. However, managers would be spending some of their time interacting with employees about similar issues even if there were no unions.

Nine out of the 15 union officials and representatives we talked to felt that it was counterproductive in the Partnership era to track time spent on union activities. They believe that union representation is an important function that is authorized by a negotiated agreement with SSA that authorizes them to represent the interests of their coworkers. They consider the amount of time currently allocated for their activities as appropriate and believe that more attention should be paid to the value of their efforts than to the time it takes to conduct them.

COMPARISON OF TIME SPENT AND COST OF UNION ACTIVITY AT IRS, THE POSTAL SERVICE AND SSA

The Postal Service and IRS provided data to us on time spent on union activities in their agencies. Postal Service records show that during fiscal year 1995, union representatives at the Postal Service reported spending 1.7 million hours of official time on grievance processing and handling in the early stages. This number does not include substantial amounts of official time spent on employee involvement programs similar to SSA's Partnership activities, which are paid for by the Postal Service. Neither does this number include official time spent on activities such as employee involvement training and ULP charges.

IRS records showed that their union representatives reported spending 442,000 hours on union activities in fiscal year 1994, the most recent year for which data are available. We did not attempt to verify these estimates. In fiscal year 1995, the Postal Service reported spending $29 million in basic pay on grievance processing and handling for the 1.7 million hours. IRS did not develop cost data for union operations.

WHO PAYS UNION COSTS IN PRIVATE INDUSTRY?

Union operations in private industry vary widely. In addition to bargaining over working conditions as SSA unions do, unions in private industry bargain over wages, hours, and benefits. In discussions with National Labor Relations Board officials, we were told that some private-sector firms do not pay their employees' salaries for the time they spend performing union activities, and other firms pay for some or all of the time. For example, during our review of 10 contracts, we found that 7 provided for company employees, acting as union representatives, to perform certain union functions in addition to their company duties, at the expense of the employer. In a 1992 publication that summarized basic patterns in private industry union contracts, the Bureau of National Affairs (BNA) reported that over 50 percent of the 400 labor contracts it analyzed guaranteed pay to employees engaged in union activity on company time. It also reported that 22 percent of the contracts specifically prohibit conducting union activities on company time.

Private-sector employers negotiate company time with pay for union representatives to handle grievances more frequently than they do for contract negotiations. Of the contracts reviewed by BNA, 53 percent guaranteed pay for union representatives to present, investigate, or handle grievances. This practice was reported occurring twice as often in manufacturing as in nonmanufacturing businesses. BNA reported that only 10 percent of the contracts guaranteed pay for employees to negotiate contracts.

Forty-one percent of the private-sector contracts guaranteeing employees pay when they conduct union activities on company time place restrictions on representatives. BNA reported that in 19 percent of the cases with such pay guarantees, management limited the amount of hours that it would pay

for. Our review of 10 private-sector contracts submitted to the Bureau of Labor Statistics found one negotiated contract under which employees were limited to 6 hours a day of company time for union representation and another under which they were limited to 8 hours per week of company time for processing grievances.

CONCLUSIONS

SSA, like other federal agencies and some private firms, pays for approved time spent by their employees on union activities. SSA has a special fiduciary responsibility to effectively manage and maintain the integrity of the Social Security trust funds from which most of these expenses are paid. In a time of shrinking budgets and personnel resources, it is especially important for SSA, as well as other agencies, to evaluate how resources are being spent and to have reliable monitoring systems that facilitate this evaluation.

To ensure accurate tracking of time spent on union activities and the staff conducting these activities, SSA has developed and is testing a new time-reporting system for its field offices and teleservice centers. We agree that these are valuable goals for a time-reporting system and believe that it should be implemented agencywide, including at headquarters, Program Service Centers, the Office of Hearings and Appeals, and other components currently using the less reliable manual reporting system. With an improved agencywide system, SSA management should have better information on where its resources are being spent.

Mr. Chairman, this concludes my formal remarks. I would be happy to answer any question from you or other members of the Subcommittee. Thank you.

FOOTNOTES

[1] The U.S. Postal Service generally does not pay the salaries and expenses of full-time union representatives. Instead, salaries and expenses are covered by union dues. The Postal Services does, however, pay for the time spent on union activities by some parttime union representatives and for union-occupied space in postal facilities.

[2] Postal labor/management relations are governed by the Postal Reorganization Act of 1970, which incorporates many provisions of the National Labor Relations Act.

[3] Postal unions, however, can bargain over wages and other economic benefits.

[4] The Postal Service is not governed by this act. The basis for paying certain union representatives for specified union activities at the Postal Service is contained in union contracts. Contract negotiations are carried out at union expense.

By Mr. FRIST:

S. 2105. A bill to amend chapter 29 of title 35, United States Code, to provide for a limitation on patent infringements relating to a medical practitioner's performance of a medical activity; to the Committee on the Judiciary.

PATENT INFRINGEMENTS LIMITATION LEGISLATION

• Mr. FRIST. 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. 2105

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

SECTION 1. LIMITATION ON PATENT INFRINGEMENTS RELATING TO A MEDICAL PRACTITIONER'S PERFORMANCE OF A MEDICAL ACTIVITY.

Section 287 of title 35, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) With respect to a medical practitioner's performance of a medical activity that constitutes an infringement under section 271 (a) or (b) of this title, the provisions of sections 281, 283, 284, and 285 of this title shall not apply against the medical practitioner or against a related health care entity with respect to such medical activity.

''(2) This subsection does not apply to the activities of any person, or employee or agent of such person (regardless of whether such person is a tax exempt organization under section 501(c) of the Internal Revenue Code of 1986), who is engaged in the commercial development, manufacture, sale, importation, or distribution of a machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than laboratory services provided in a physician's office), if such activities are—

''(A) directly related to the commercial development, manufacture, sale, importation, or distribution of a machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than clinical laboratory services provided in a physician's office); and

''(B) regulated under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, or the Clinical Laboratories Improvement Act.

''(3) For purposes of this subsection:

''(A) the term 'body' means—

''(i) a human body, organ, or cadaver; or

''(ii) a nonhuman animal used in medical research or instruction directly relating to the treatment of humans.

''(B) The term 'medical activity' means the performance of a medical or surgical procedure on a body, but shall not include—

''(i) the use of a patented machine, manufacture, or composition of matter in violation of such patent;

''(ii) the practice of a patented use of a composition of matter in violation of such patent; or

''(iii) the practice of a process in violation of a biotechnology patent.

''(C) The term 'medical practitioner' means any natural person who is—

''(i) licensed by a State to provide the medical activity described under paragraph (1); or

''(ii) acting under the direction of such natural person in the performance of the medical activity.

''(D) The term 'patented use of a composition of matter' does not include a claim for a method of performing a medical or surgical procedure on a body that recites the use of a composition of matter if the use of that composition of matter does not directly contribute to achievement of the objective of the claimed method.

''(E) The term 'professional affiliation' means staff privileges, medical staff membership, employment or contractual relationship, partnership or ownership interest, academic appointment, or their affiliation under which a medical practitioner provides a medical activity on behalf of, or in association with, a health care entity.

''(F) The term 'related health care entity'—

''(i) means an entity with which a medical practitioner has a professional affiliation under which the medical practitioner performs a medical activity; and

''(ii) includes without limitation such an affiliation with a nursing home, hospital, university, medical school, health maintenance organization, group medical practice, or a medical clinic.

''(G) The term 'State' means any State or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(4) This subsection shall not apply to any patent issued before the date of enactment of this subsection.''.•

By Mr. MCCONNELL:

S. 2106. A bill to amend the United Nations Participation Act of 1945 to prohibit the placement of members of the United States Armed Forces under the command, direction, or control of the United Nations, and for other purposes; to the Committee on Foreign Relations.

THE UNITED NATIONS PARTICIPATION ACT OF 1945 AMENDMENT ACT OF 1996

• Mr. MCCONNELL. Mr. President, for several months, I have tried to get a straight answer from the administration on the legal justification for the deployment of U.S. troops under United Nations' command in Macedonia. While the soldiers have a mission, I do not believe they have a clear, legal mandate.

The question of our involvement in Macedonia was first brought to my attention by Ron Ray, a constituent of mine who was representing Michael New. Apparently, Michael New asked his commanding officer to provide some explanation as to why an American Army specialist was being asked to wear a U.N. uniform and deploy to Macedonia under the U.N. flag.

In a recent hearing with Ambassador Madeleine Albright, usually one of the more plain spoken members of the President's foreign policy team, we reviewed the procedures for deploying American troops under the United Nation's flag. She offered the view that while there were clear guidelines defining chapter VII deployments, using chapter VI to justify a mission had evolved as a matter of U.N. custom and tradition.

Since 1948, 27 peace operations have been authorized by the United Nations Security Council. In addition to being authorized by a specific chapter of the United Nations Charter, U.S. troop deployments must be authorized consistent with U.S. legal requirements spelled out in the United Nations Participation Act.

In July 1993, President Clinton wrote the Congress stating, ''U.N. Security Council Resolution 795 established the UNPROFOR Macedonia mission under a chapter VI of the U.N. Charter and UNPROFOR Macedonia is a peacekeeping force under chapter VI of the Charter.'' But this assertion is not substantiated by the record of resolutions and reports passed by the United Nations.

Between 1991 and the end of 1995, the United Nations passed 97 Security Council resolutions related to the former Yugoslavia. In addition, 13 reports were issued by the U.N. Secretary General relative to the mandate of the UNPROFOR Macedonia operation. None of these resolutions or reports mention a chapter VI mandate for Macedonia. In fact, there are 27 resolutions which specifically refer to UNPROFOR, which includes Macedonia, as chapter VII. It is worth pointing to just one of

these resolutions which states that the United Nations Security Council was ''Determined to ensure the security of UNPROFOR and its freedom of movement for all its missions (i.e., Macedonia) and to these ends was acting under chapter VII of the Charter of the United Nations.''

In spite of the record, the administration continues to insist that Macedonia is a chapter VI operation. When I asked them to document this determination, I was provided the following guidance by the Acting Assistant Secretary of State:

The U.N. Charter authority underlying the mandate of a U.N. peace operation depends on an interpretation of the relevant resolutions of the U.N. Security Council. As a matter of tradition, the Security Council explicitly refers to a ''Chapter VII'' when it authorizes an enforcement operation under that Chapter. The absence of a reference to Chapter VII in a resolution authorizing or establishing a peacekeeping operation thus indicates that the operation is not considered by the Security Council to be an enforcement operation. Neither does the Security Council refer explicitly to ''Chapter VI'' in its resolutions pertaining to peacekeeping operations. This practice evolved over time as a means for the Security Council to develop practical responses to problems without unnecessarily invoking the full panoply of provisions regarding the use of force under Chapter VII, and without triggering other Charter provisions that might impede Member States on the Security Council if Chapter VI were referenced.

In essence what this explanation means is U.S. troops can be deployed in harm's way as a matter of U.N. tradition rather than U.S. law. It means U.S. soldiers are deployed in a combat zone with an absence of reference to the actual legal mandate because the U.N. Security Council does not want to refer explicitly to chapter VI due to a reluctance to inconvenience member states on the Security Council.

Mr. President, let me try to add a little clarity to just what the Acting Assistant Secretary means when stating the administration does not want to invoke a ''panoply of provisions regarding the use of force.'' In simple English, when a chapter VII mission is authorized by the U.N., U.S. law requires the operation to be approved by the Congress. In simple terms, the State Department is using a chapter VI designation to avoid having to come to the Congress to justify the financial and military burden the United States has assumed in Macedonia.

When the State Department calls a panoply of provisions problem, I call surrendering U.S. interests to U.N. command. This is not the first time Congress has been circumvented. I had hoped the administration had learned from our experience in Somalia. I had hoped the tragic loss of life would help the President understand the value and importance of a full congressional debate and approval of the merits of deploying American soldiers overseas into hostile conditions. Apparently, the lesson is lost on this administration. When the U.N. calls, we send our young men and women to serve.

Mr. President, I have taken the time to review the circumstances of our military involvement in Macedonia, in order to explain why I am introducing legislation today which assures U.S. troops will not serve under U.N. commanders and will not be forced to wear a U.N. uniform. Our soldiers sign up to serve and pledge allegiance to their Nation—not the United Nations. This bill will protect them as they fulfill both their oath and responsibilities.●

By Mr. THOMAS (for himself, Mr. ROBB and Mr. MCCAIN):

S. 2107. A bill to authorize the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Mongolia; to the Committee on Finance.

MONGOLIA MOST-FAVORED-NATION STATUS LEGISLATION

Mr. THOMAS. Mr. President, I rise as chairman of the Subcommittee on East Asian and Pacific Affairs to introduce S. 2107, a bill to authorize the extension of nondiscriminatory treatment—formerly known as most-favored-nation status—to the products of Mongolia. I am pleased to be joined by the subcommittee's ranking minority member, Senator ROBB, and Senator MCCAIN as original cosponsors.

Mongolia has undergone a series of remarkable and dramatic changes over the last few years. Sandwiched between the former Soviet Union and China, it was one of the first countries in the world to become Communist after the Russian revolution. After 70 years of Communist rule, though, the Mongolian people recently have made great progress in establishing a democratic political system and creating a free-market economy. Just this year, the country held its third election under its new constitution, resulting in a parliamentary majority for the coalition of democratic opposition parties. Rather than attempt to maintain its hold on power, the former government peaceably—and commendably—transferred power to the new government.

Mongolia has demonstrated a strong desire to build a friendly and cooperative relationship with the United States on trade and related matters since its turn toward democracy. We concluded a bilateral trade treaty with that country in 1991, and a bilateral investment treaty in 1994. Mongolia has received nondiscriminatory trading status since 1991, and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974. In addition, it has acceded to the Agreement Establishing the World Trade Organization.

Mr. President, Mongolia has clearly demonstrated that it is fully deserving of joining the ranks of those countries to which we extend nondiscriminatory trade status. The extension of that status would not only serve to commend the Mongolians on their fine progress, but would also enable the United States to avail itself of all its rights under the WTO with respect to Mongolia.

I have another, more personal, reason for being interested in MFN status for Mongolia. Mongolia and my home State of Wyoming are sister states; a strong relationship between the two has developed over the past 3 years. Several Mongolian Provincial Governors have visited the State, and the two governments have established partnerships in education and agriculture. Like Wyoming, Mongolia is a high plateau with high mountains on the northwest border, where many of the inhabitants make their living by raising livestock. I am pleased to see the development of this mutually beneficial relationship, and am sure that the extension of nondiscriminatory trade status will serve to strengthen it further.

Mr. President, Congressman BEREUTER has introduced similar legislation in the House. While we both realize that it is probably too late in the legislative year to move this bill forward before we adjourn sine die, we hope that introducing the bill now will serve as a starting point to move forward with this important measure early in the next Congress.

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. 2107

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

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that Mongolia—

(1) has received most-favored-nation treatment since 1991 and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974;

(2) has since ending its nearly 70 years of dependence on the former Soviet Union, made remarkable progress in establishing a democratic political system and creating a free-market economic system;

(3) has recently held its third election under its new constitution, resulting in a parliamentary majority for the coalition of democratic opposition parties and a peaceable transfer of power to the new government;

(4) has concluded a bilateral trade treaty with the United States in 1991, and a bilateral investment treaty in 1994;

(5) has acceded to the Agreement Establishing the World Trade Organization;

(6) has demonstrated a strong desire to build a friendly and cooperative relationship with the United States on trade matters; and

(7) the extension of unconditional most-favored-nation treatment to the products of Mongolia would enable the United States to avail itself of all rights under the World Trade Organization with respect to Mongolia.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO MONGOLIA.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSIONS OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Mongolia; and

(2) after making a determination under paragraph (1) with respect to Mongolia, proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products on Mongolia, title IV of the Trade Act of 1974 shall cease to apply to that country.

By Mr. DORGAN (for himself, Mr. ASHCROFT, Mr. BIDEN, Mr. BREAUX, Mr. COATS, Mr. DEWINE, Mr. FAIRCLOTH, Mr. FORD, Mr. GRASSLEY, Mr. HATFIELD, Mr. INHOFE, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. PRESSLER, and Mr. THURMOND):

S. 2108. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Labor and Human Resources.

THE ASSISTED SUICIDE FUNDING RESTRICTION ACT

Mr. DORGAN. Mr. President, I rise today, along with my colleague, Senator ASHCROFT, to introduce a piece of legislation. We understand that it is late in the session, but we have just completed work on the legislation, and we hope that introducing it now and reintroducing it in the next Congress will allow us to make some progress toward enacting this bill.

There are 15 original cosponsors besides myself and Senator ASHCROFT: Senators BIDEN, BREAUX, COATS, DEWINE, FAIRCLOTH, FORD, GRASSLEY, HATFIELD, INHOFE, LOTT, MACK, MCCONNELL, MURKOWSKI, PRESSLER, and THURMOND.

This is obviously a bipartisan group of Senators who are today introducing this legislation. I will describe it briefly, and then I will ask my colleague, Senator ASHCROFT from Missouri, with whom I am pleased to introduce this today, to add to that description.

Our legislation is called the Assisted Suicide Funding Restriction Act. That is a rather long name, but simply stated, what this bill ensures is that Federal tax dollars will not be used to pay for assisting in suicide.

We are in a circumstance in this country where only one State—the State of Oregon—has legalized physician-assisted suicides. The State has every right to do that. And Oregon is now engaged in the courts in a challenge of its law. When and if the court challenge is dismissed and it becomes law in Oregon—as is expected based on an earlier Ninth Circuit Court of Appeals decision—the folks who run the Medicaid Program in Oregon indicate that the State fully intends to use its Medicaid dollars to pay for physician-assisted suicides.

Some of us here in Congress believe that we ought not to in any way countenance the use of Federal dollars in the furtherance of physician-assisted suicides. We are not telling the States what their policies ought to be with respect to whether physician-assisted suicides should be allowed. Most States have already made that judgment and decided that assisted suicide is not appropriate. But to a State that has said it intends to use Federal dollars to further their State policy allowing assisted suicide, we say no. That is not what we would expect Federal dollars, especially Federal health care dollars, to be used for. We would expect Federal health care dollars to be used to advance the health of patients and the delivery of medicine to those in this country who need it—not to advance Federal payment for those who would elect physician-assisted suicide.

Some might say, ''Well, why do you have to legislate on this?'' I say to them, if we do not, when the courts resolve the legal questions with respect to the Oregon law, we likely will immediately be using Federal dollars to pay for physician-assisted suicide in that State, regardless of whether Congress and the public want them to or not. The officials in that State have indicated that will be the case. So with this legislation we say we think it is inappropriate from a public policy standpoint and we would not want scarce Federal dollars used for that purpose.

I would like to describe what this legislation is not because it is as important as describing what it is.

This legislation does not limit the withholding of, or the withdrawal of, medical treatment, or of nutrition, or hydration from terminally-ill patients who have decided they do not want their lives sustained by medical technology. Most people and States recognize that there are ethical, moral, and legal distinctions between actively taking steps to end a patient's life and withholding or withdrawing treatment in order to allow a patient to die naturally. Again, this legislation specifically states that we are not interfering with the ability of patients and their families to end or withdrawal treatment.

This legislation also does not prohibit Federal funding for any care or service that is intended to alleviate a patient's pain or discomfort, even if the use of this pain control ultimately hastens the patient's death. I think we would all agree that we should make the utmost effort to ensure that terminally ill patients do not spend their final days in pain and suffering, and this legislation does not hinder that.

Finally, this legislation does not prohibit a State from using its own dollars to assist in suicide. If a State decides that it wants to allow and pay for physician-assisted suicide as a matter of policy, it can use its own money to further that aim. This bill simply says we do not want Federal dollars used for that purpose.

Mr. President, I understand that the issue of assisted suicide is an enormously emotional one. All of us in this country have read the news accounts of a doctor who is actively involved in assisting in his patients' suicides and of those who have taken him to court saying he has violated their State law. People have very strongly held opinions about this subject because issues of life and death reach to the inner core of people's moral beliefs. But regardless of one's personal views about assisted suicide, there is little disagreement on the broader question of whether we ought to use Federal health care dollars to pay for physician-assisted suicide.

In fact, a national survey earlier this year found that 83 percent of the American people believe that tax dollars should not be used for assisted suicide. I believe this legislation should and will have wide support. The National Conference of Catholic Bishops and the National Right to Life Committee have both endorsed the bill. The American Medical Association and the American Nurses Association have position statements opposing assisted suicide. President Clinton has also indicated his opposition to assisted suicide, and Senator ASHCROFT and I hope that our colleagues will join us as cosponsors of this legislation. We hope to advance this legislation in the intervening days, and also, if necessary, to reintroduce it early in the next session to see if we can get the Congress to enact this legislation soon.

Let me again sum up what this bill would and would not do, along with why it is necessary. Mr. President, this legislation will prohibit Federal funds from being used for the costs associated with assisted suicide.

Let me say again that I am pleased to work with my colleague, Senator ASHCROFT of Missouri, who I know feels strongly about this issue as well.

Mr. President, this legislation will prohibit Federal funds from being used for the costs associated with assisted suicide.

I understand that the decisions that confront individuals and their families when a terminal illness strikes are among the most difficult a family will ever have to make. At times like this, each of us must rely on our own religious beliefs and conscience to guide us. But regardless of one's personal views about assisted suicide, I do not believe that taxpayers should be forced to pay for this controversial practice. The majority of taxpayers I have talked to do not want their tax money used to assist in suicides. In fact, when asked in a poll in May of this year whether tax dollars should be spent for assisting suicide, 83 percent of taxpayers feel tax money should not be spent for this purpose.

The Assisted Suicide Funding Restriction Act prevents any Federal funding from being used for any item or service which is intended to cause, or assist in causing, the suicide, euthanasia, or mercy killing of any individual. The programs covered under this bill include Medicare, Medicaid, the military health care system, Federal Employees Health Benefits [FEHB] plans, Public Health Service programs, programs for the disabled, and the Indian Health Service.

This bill does make some important exceptions. First, let me make clear that this bill does not limit the withholding or withdrawal of medical treatment or of nutrition or hydration from terminally ill patients who have decided that they do not want their lives sustained by medical technology. Most people and States recognize that there are ethical, moral, and legal distinctions between actively taking steps to end a patient's life and withholding or withdrawing treatment in order to allow a patient to die naturally. Every State now has a law in place governing a patient's right to lay out in advance, through an advanced directive, living will, or some other means, his or her wishes related to medical care at the end of life. Again, this bill would not interfere with the ability of patients and their families to make clear and carry out their wishes regarding the withholding or withdrawal of medical care that is prolonging the patient's life.

This bill also makes clear that it does not prevent Federal funding for any care or service that is intended to alleviate a patient's pain or discomfort, even if the use of this pain control ultimately hastens the patient's death. Large doses of medication are often needed to effectively reduce a terminally ill patient's pain, and this medication may increase the patient's risk of death. I think we all would agree that the utmost effort should be made to ensure that terminally ill patients do not spend their final days in pain and suffering.

Finally, while I think Federal dollars ought not be used to assist a suicide, this bill does not prohibit a State from using its own dollars for this purpose. However, I do not think taxpayers from other States, who have determined that physician-assisted suicide should be illegal, should be forced to pay for this practice through the use of Federal tax dollars.

I realize that the legality of assisted suicide has historically been a State issue. Thirty-five States, including my State of North Dakota, have laws prohibiting assisted suicide and at least eight other States consider this practice to be illegal under common law. Only one State, Oregon, has a law legalizing assisted suicide.

However, two circumstances have changed that now make this an issue of Federal concern. First, Federal courts are already handing down decisions that will have enormous consequences on our public policy regarding assisted suicide. Second, we are on the brink of a situation where Federal Medicaid dollars may soon be used to reimburse physicians who help their patients die. Should this occur, Congress will not have considered this issue. I believe it was never Congress' intention for Medicaid or other Federal dollars to be used to assist in suicide, and I hope we will take action soon to stop this practice before it starts. If Congress does not act, a few States, or a few judges, may very well make this decision for us.

In two separate cases this year, Compassion in Dying versus State of Washington and Quill versus Vacco, the Federal Ninth and Second Circuit Courts of Appeal, respectively, have struck down Washington and New York State statutes outlawing assisted suicide. In the Compassion in Dying case, the ninth circuit held that the ''right to die'' is constitutionally recognized and that Washington State's law prohibiting physicians from prescribing life-ending medication therefore violates the ''due process'' clause of the 14th amendment for terminally ill adults who wish to end their life. In Quill versus Vacco, the second circuit also found that a State law prohibiting physician-assisted suicide violates the Constitution, but it did not agree with the ninth circuit's reasoning that such a law violates the due process clause. Rather, the second circuit held that the New York State law was unconstitutional because it violates the ''equal protection'' clause of the Constitution. The Supreme Court could decide to take up one or both of these cases as early as next year.

Ironically, in a third case, Lee versus Oregon, a Federal district court judge also used the ''equal protection'' clause as the basis for his decision—but he ruled that Oregon's 1994 law allowing assisted suicide for the terminally ill violates the Constitution, and the judge enjoined the implementation of Oregon's law. However, this decision has been appealed to the Ninth Circuit Court of Appeals, which has already affirmed a constitutional ''right to die.'' The ninth circuit's decision, which is expected to overturn the district court and lift the injunction against Oregon's law, could be handed down any day. The State's Medicaid director has already stated that, when the injunction against Oregon's law is lifted, Oregon will use Medicaid dollars to pay for the costs associated with a physician assisting in suicide.

I hope you agree with me and the vast majority of Americans who oppose using scarce Federal dollars to pay for assisted suicide. I invite you to join me, Senator ASHCROFT and 15 of our colleagues in this effort by cosponsoring the Assisted Suicide Funding Restriction Act.●

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, let me begin by commending my colleague form North Dakota for his excellent remarks, and his clear explanation of this important concept that I believe the American people would have us do. And, after all, we come to this body as servants of the people. The people are overwhelmingly aware of this issue, and the vast majority of American citizens do not believe that tax dollars should be used in the conduct of medicine in such a way as to take lives rather than to save them.

I thank my colleague from North Dakota and those who have joined us in cosponsoring this particular measure.

Mr. President, President Jefferson wrote in words that are now inscribed on the Jefferson Memorial that the ''care and protection of human life, and not its destruction'' are the only legitimate objectives of good government. Thomas Jefferson believed that our rights were God-given and that life was an inalienable right.

In this spirit and understanding, I join today with Senator DORGAN in sponsoring the Assisted Suicide Funding Restriction Act. It is a modest and timely response to a challenge to our legal system and a challenge to the moral character of this country. What this bill says simply is that Federal tax dollars shall not be used to pay for and promote assisted suicide, or euthanasia.

This bill is urgently needed to preserve the intent of the Founding Fathers and the integrity of Federal programs as they now exist and serve the elderly and seriously ill in America—programs which were intended to support life and to enhance human life, not to promote its destruction.

Government's role in this culture should be to call us to our highest and best. I do not believe Government has a role in hastening Americans to their graves.

Our court system is in the process now of litigating serious issues in this respect, and, as a result, we find ourselves with the need for this kind of clarifying legislation dramatized. This bill is intended to prevent the morally contemptible injustice of taking money from an American citizen and then using that money to kill another American citizen through assisted suicide.

This is a bill which is very narrowly focused. It is clearly targeted. It only affects Federal funding for actions whose direct purpose is to cause or assist in causing suicide—actions that are clearly condemned as unethical by the American Medical Association and also illegal in the vast majority of our States. Again, this bill simply prohibits any Federal funding for medical actions that assist suicide.

This bill is needed because, in March, the Ninth Circuit Court of Appeals contradicted the positions of 49 States, when it found a ''Federal constitutional right'' to physician-assisted suicide in a case involving Washington State law. Similarly, the State of Oregon passed Measure 16, the first law in America to authorize the dispensing of drugs to terminally ill patients to assist in their suicide.

Although a Federal court in Oregon struck down the law that Oregon had enacted, the case is being appealed to that same ninth circuit, which has already signaled that it believes in a right, a constitutional right, to assisted suicide.

Oregon's Medicaid director and the chairman of Oregon's Health Services

Commission have both said that whenever the ninth circuit allows the Oregon law to go into effect, that the federally funded Medicaid Program in Oregon will begin paying for assisted suicide with Federal taxpayers' funds. According to Oregon's authorities, the procedure would be listed on Medicaid reimbursement forms under the grotesque euphemism of ''comfort care.''

That is a rather startling, almost Orwellian label to put on assisted suicide. I would think if I were going over an insurance policy and someone said, ''Do you want to be covered for comfort care,'' I would say, ''Oh, yes, throw in the comfort care.'' But comfort care turns out to be a phrase that is destined to be used for assisted suicide, and I do not believe it is intended by this Congress or previous Congresses, or in the law of the United States, that tax dollars from Federal resources be used to support that kind of ''comfort care.''

The problem is greatly magnified when we consider that Oregon will be drawing down Federal taxpayers' funds to help pay for such assisted suicides. Neither Medicaid nor Medicare nor any other Federal health program has explicit language to prohibit the use of Federal funds to dispense lethal drugs for suicide, primarily because nobody in the history of these programs felt that we would be appropriating money or creating a program to provide for suicide. We felt we were providing for individuals, developing therapeutic approaches to health problems, not providing for something that the American Medical Association would say was unethical and inappropriate, and which would shock the conscience of most Americans.

When Oregon's ninth circuit reinstates measure 16, Federal funds will be used for comfort care, a.k.a.—also known as—assisted suicide. As a result, I think it is important for us to step up and to define and to place into law the kinds of restrictions which I think we felt were implied in all of our activities prior to this time. We would be derelict in our duty if we were now to ignore this problem and allow a few officials, either in a Federal circuit or in a specific State, to decide that the taxpayers of all other States and jurisdictions would have to help subsidize a practice which they have never authorized and that millions find to be morally abhorrent.

It is crystal clear that the American people do not want their tax dollars spent on dispensing toxic drugs with the sole intent to assist suicide. Recently, a Wirthlin Poll showed 83 percent of the public opposed such use of Federal funds. Even the voters of Oregon, who narrowly approved Measure 16 by a vote of 51 to 49 percent, did not consider the question of public funding. Voters of two other west coast States, California and Washington, soundly defeated similar initiatives to legalize assisted suicide. Since November of 1994, when Oregon passed its law, 15 other States have considered and rejected bills to legalize assisted suicide. Of course, the Federal funding question has never been placed before the people in a ballot initiative.

I would like to say a few words about the way this legislation is crafted. It is very carefully limited, and it is very modest. It does not in any way forbid a State to legalize assisted suicide. If a State like Oregon chooses to do so, the Federal Government does not choose to intrude under this bill, or even forbid the State to provide its own funds.

If the State were to provide for assisted suicide and were to fund that with State dollars, in spite of the fact that is not my idea of good State government, it would be allowed under this bill. This bill simply would prevent Federal funds and Federal programs from being drawn into and providing support for and promoting assisted suicide. After the passage of this bill, States may choose to legalize or even fund assisted suicide. They simply could not choose to draw down Federal funds to promote or develop that program.

The bill also does not attempt to resolve the constitutional issue that is on its way to the Supreme Court, that issue being whether there is a right to assisted suicide or euthanasia. Nor would this legislation be affected by what the Supreme Court might do when it decides that issue. Congress would still have the right to prevent Federal funding of such a practice, even if the Supreme Court found that there was a constitutional right to assisted suicide.

It is also important to understand what this bill does not cover. As its rule of construction clearly provides, it does not affect abortion. It does not affect complex issues, such as the withholding or withdrawal of life-sustaining treatment, even of nutrition and hydration. Nor does this bill affect the disbursing of large doses of morphine or other pain killers to ease the pain of individuals with terminal illnesses, even though the administration of such drugs does, in some cases, carry the risk of hastening death as a side effect. The administration of pain killers is a long-acknowledged, legally accepted practice in all 50 States—and is ethically accepted by the medical profession and even pro-life and religious organizations as well.

What we are dealing with here is the Federal funding of actions whose direct purpose is to cause or assist in causing the suicide of a patient.

I am pleased that in spite of the fact the Democrats and Republicans may disagree on how to reform Federal programs like Medicaid and Medicare, there are things on which we do agree. One thing we should be able to agree on is the measure in this bill. Of course, our agreement is reflected in the cosponsorship of this measure by individuals on both sides of the aisle. These Federal programs should provide a means to care for and to protect our citizens, not become vehicles for the destruction of our citizens, especially as a result of Federal funding.

I would like to close by quoting the hallmark of Jeffersonian principles embodied in the Declaration of Independence:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

I therefore urge all my colleagues to support this bill, an effort to uphold congressional responsibility, to defend the foremost of our unalienable rights, the right that citizens have to life.

By Mr. DASCHLE:

S. 2109. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

SMALL BUSINESS LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation that would waive for 1-year penalties on small businesses that fail to pay their taxes to the Internal Revenue Service [IRS] electronically.

In July of this year, millions of small business owners received a letter from the IRS announcing that, beginning January 1, 1997, business tax payments would have to be made via electronic funds transfer. This letter sent shock waves through the small business community in South Dakota. The letter was vague and provided little information on how the new deposit requirement would work.

In meetings, letters, and phone calls, South Dakotans have posed many questions to me that the IRS letter did not answer: ''How much will this cost my business?''; ''Will I have to purchase new equipment to make these electronic transfers?''; and ''Will the IRS be taking the money directly out of my account?''

As you may recall, this new requirement was adopted as part of a package of revenue offsets for the North American Free-Trade Agreement.

The Treasury Department was directed to draw up regulations phasing in the requirement, which will raise money by eliminating the float banks accrue on the delay between the time they receive tax deposits from businesses and the time they transfer this money to the Treasury.

All businesses with $47 million or more in annual payroll taxes are already required to pay by electronic funds transfer. The new, lower threshold is estimated to bring 1.3 million small- and medium-sized businesses into the program for the first time.

As a result of protests registered by many small businesses, the IRS decided to delay for 6 months the 10 percent penalty on firms failing to begin making deposits electronically by January 1, 1997. Not satisfied with this step, Congress recently passed an outright 6 month delay in the electronic filing requirement as part of the Small Business Job Protection Act of 1996.

I strongly supported this amendment. However, I believe that these 1.3 million businesses should be given further time to comply without the threat of financial penalties. Electronic funds transfer may well prove to be the most efficient system of payment for all concerned, including small businesses. Once they learn the advantages of the new system, these firms may well come to prefer it to the existing one, which requires a special kind of coupon and a lot of paperwork. But this is a new procedure, and many small employers are not sure what it will entail. That is why I believe we should enact a temporary waiver of penalties.

The bill I am introducing today would suspend penalties for noncompliance for 1 year, until July 1, 1998. I believe this step is necessary to provide time for small businesses to be properly educated about the easiest, least burdensome, and most cost-efficient way to comply. In my view, whenever possible the IRS should avoid taking an adversarial approach toward the small business community, and, for that matter, any taxpayers. At every opportunity, the IRS should seek to help taxpayers comply with their obligations. I believe that, by removing the threat of penalties for a short while longer, this legislation will help the IRS fulfill this important part of its mission.

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. 2109

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

SECTION 1. WAIVER OF PENALTY ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs during the 1-year period beginning on July 1, 1997.

By Mr. DASCHLE:

S. 2110. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

EMPLOYEE STOCK OWNERSHIP PLANS LEGISLATION

Mr. DASCHLE. Mr. President, I today am introducing legislation that would take a small but significant step toward improving the productivity of American businesses and workers. My bill would permit certain employee stock ownership plans [ESOP's] to be beneficiaries of charitable remainder trusts under estate tax law.

We have all heard stories about closely held companies being sold and broken up in order to raise cash to pay a large estate tax bill to the Internal Revenue Service. Not infrequently, a company that has been built over a period of decades is dismantled, cutting adrift employees with years of service.

My bill would provide a way for an owner of a nonpublicly traded company to benefit company employees without having the estate tax stand in the way. It would permit the owner under certain circumstances to donate his or her shares to the company's ESOP through the use of a charitable/ESOP remainder trust. If carried out in accordance with the restrictions set forth in the bill, the transfer would be eligible for an estate tax deduction. By being transferred to an ESOP, the stock would be allocated directly to company employees.

The legislation includes a number of safeguards against abuse. First, stock transferred to an ESOP in this fashion could not be used to benefit any ESOP participant who was related to the decedent or who owned more than 5 percent of the company. This safeguard is aimed at ensuring that no estate tax deduction would be available where the transfer benefited the decedent's family members or the company's major stockholders. Second, the bill would require that the transferred stock be allocated to ESOP participants over time. This would provide an incentive for employees to continue to build the business. It would also prevent the creation of instant windfalls for employees that could encourage them to terminate employment.

Any owner of a non-publicly traded company would be free to take advantage of this legislation to preserve a business beyond his or her death. I believe that quite a few family and closely held businesses will find the legislation of interest, as these firms tend to be run by people who take an interest in their employees and would like to see their companies make a continuing contribution to their communities. I salute these entrepreneurs and propose this modest legislation in an effort to help them realize that goal.

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. 2110

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

SECTION 1. GRATUITOUS TRANSFERS FOR THE BENEFIT OF EMPLOYEES.

(a) IN GENERAL.—Subparagraph (C) of section 664(d)(1) of the Internal Revenue Code of 1986 and subparagraph (C) of section 664(d)(2) of such Code are each amended by striking the period at the end and inserting ''or, to the extent the remainder interest is in qualified employer securities (as defined in paragraph (3)(B)), is to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by paragraph (3)).''

(b) QUALIFIED GRATUITOUS TRANSFER DEFINED.—Subsection (d) of section 664 of such Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) QUALIFIED GRATUITOUS TRANSFER OF QUALIFIED EMPLOYER SECURITIES.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified gratuitous transfer' means a transfer of qualified employer securities to an employee stock ownership plan (as defined in section 4975(e)(7)) but only to the extent that—

''(i) the securities transferred previously passed from a decedent to a trust described in paragraph (1) or (2);

''(ii) no deduction under section 404 is allowable with respect to such transfer;

''(iii) such plan provides that the securities so transferred are allocated to plan participants in a manner consistent with section 401(a)(4);

''(iv) such plan treats such securities as being attributable to employer contributions but without regard to the limitations otherwise applicable to such contributions under section 404;

''(v) such plan provides that such securities are held in a suspense account under the plan to be allocated each year, up to the limitations under section 415(c), after first allocating all other annual additions for the limitation year, up to the limitations under sections 415 (c) and (e); and

''(vi) the employer whose employees are covered by the plan described in this subparagraph files with the Secretary a verified written statement consenting to the application of sections 4978 and 4979A with respect to such employer.

''(B) QUALIFIED EMPLOYER SECURITIES.—For purposes of this section, the term 'qualified employer securities' means employer securities (as defined in section 409(l)) which are issued by a domestic corporation which has no outstanding stock which is readily tradable on an established securities market.

''(C) TREATMENT OF SECURITIES ALLOCATED BY EMPLOYEE STOCK OWNERSHIP PLAN TO PERSONS RELATED TO DECEDENT OR 5-PERCENT SHAREHOLDERS.—

''(i) IN GENERAL.—If any portion of the assets of the plan attributable to securities acquired by the plan in a qualified gratuitous transfer are allocated to the account of—

''(I) any person who is related to the decedent (within the meaning of section 267(b)), or

''(II) any person who, at the time of such allocation or at any time during the 1-year period ending on the date of the acquisition of qualified employer securities by the plan, is a 5-percent shareholder of the employer maintaining the plan,

the plan shall be treated as having distributed (at the time of such allocation) to such person or shareholder the amount so allocated.

''(ii) 5-PERCENT SHAREHOLDER.—For purposes of clause (i), the term '5-percent shareholder' means any person who owns (directly or through the application of section 318(a)) more than 5 percent of—

''(I) any class of outstanding stock of the corporation which issued such qualified employer securities or of any corporation which is a member of the same controlled group of corporations (within the meaning of section 409(l)(4)) as such corporation, or

''(II) the total value of any class of outstanding stock of any such corporation; and

For purposes of the preceding sentence, section 318(a) shall be applied without regard to the exception in paragraph (2)(B)(i) thereof.

''(iii) CROSS REFERENCE.—

''For excise tax on allocations described in clause (i), see section 4979A.''

(c) CONFORMING AMENDMENTS.—

(1) Section 401(a)(1) of such Code is amended by inserting ''or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in section 664(d)(3)(A)),'' after ''stock bonus plans),''.

(2) Section 404(a)(9) of such Code is amended by inserting after subparagraph (B) the following new subparagraph:

''(C) A qualified gratuitous transfer (as defined in section 664(d)(3)(A)) shall have no effect on the amount or amounts otherwise deductible under paragraph (3) or (7) or under this paragraph.''

(3) Section 415(c)(6) of such Code is amended by adding at the end the following new sentence:

''The amount of any qualified gratuitous transfer (as defined in section 664(d)(3)(A)) allocated to a participant for any limitation year shall not exceed the limitations imposed by this section, but such amount shall not be taken into account in determining whether any other amount exceeds the limitations imposed by this section.''

(4) Section 415(e) of such Code is amended—

(A) by redesignating paragraph (6) as paragraph (7), and

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

''(6) SPECIAL RULE FOR QUALIFIED GRATUITOUS TRANSFERS.—Any qualified gratuitous transfer of qualified employer securities (as defined by section 664(d)(3)) shall not be taken into account in calculating, and shall not be subject to, the limitations provided in this subsection.''

(5) Paragraph (3) of section 644(e) of such Code is amended to read as follows:

''(3) acquired by a charitable remainder annuity trust (as defined in section 664(d)(1)) or a charitable remainder unitrust (as defined in sections 664(d) (2) and (4)), or''.

(6) Subparagraph (B) of section 664(d)(1) of such Code and subparagraph (B) of section 664(d)(2) of such Code are each amended by inserting ''and other than qualified gratuitous transfers described in subparagraph (C)'' after ''subparagraph (A)''.

(7) Paragraph (4) of section 674(b) of such Code is amended by inserting before the period ''or to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined in section 664(d)(3))''.

(8)(A) Section 2055(a) of such Code is amended—

(i) by striking ''or'' at the end of paragraph (3),

(ii) by striking the period at the end of paragraph (4) and inserting ''; or'', and

(iii) by inserting after paragraph (4) the following new paragraph:

''(5) to an employee stock ownership plan if such transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning of section 664(d)(3).''

(B) Clause (ii) of section 2055(e)(3)(C) of such Code is amended by striking ''section 664(d)(3)'' and inserting ''section 664(d)(4)''.

(9) Paragraph (8) of section 2056(b) of such Code is amended to read as follows:

''(8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

''(A) IN GENERAL.—If the surviving spouse of the decedent is the only beneficiary of a qualified charitable remainder trust who is not a charitable beneficiary nor an ESOP beneficiary, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) CHARITABLE BENEFICIARY.—The term 'charitable beneficiary' means any beneficiary which is an organization described in section 170(c).

''(ii) ESOP BENEFICIARY.—The term 'ESOP beneficiary' means any beneficiary which is an employee stock ownership plan (as defined in section 4975(e)(7)) that holds a remainder interest in qualified employer securities (as defined in section 664(d)(3)) to be transferred to such plan in a qualified gratuitous transfer (as defined in section 664(d)(3)).

''(iii) QUALIFIED CHARITABLE REMAINDER TRUST.—The term 'qualified charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664).''

(10) Section 4947(b) of such Code is amended by inserting after paragraph (3) the following new paragraph:

''(4) SECTION 507.—The provisions of section 507(a) shall not apply to a trust which is described in subsection (a)(2) by reason of a distribution of qualified employer securities (as defined in section 664(d)(3)) to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by section 664(d)(3)).''

(11) The last sentence of section 4975(e)(7) of such Code is amended by inserting ''and section 664(d)(3)'' after ''section 409(n)''

(12) Subsection (a) of section 4978 of such Code is amended by inserting ''or acquired any qualified employer securities in a qualified gratuitous transfer to which section 664(d)(3) applied'' after ''section 1042 applied''.

(13) Paragraph (2) of section 4978(b) of such Code is amended—

(A) by inserting ''or acquired in the qualified gratuitous transfer to which section 664(d)(3) applied'' after ''section 1042 applied'', and

(B) by inserting ''or to which section 664(d)(3) applied'' after ''section 1042 applied'' in subparagraph (C) thereof.

(14) Subsection (c) of section 4978 of such Code is amended by striking ''written statement'' and all that follows and inserting ''written statement described in section 664(d)(3)(A)(vi) or in section 1042(b)(3) (as the case may be).''

(15) Paragraph (2) of section 4978(e) of such Code is amended by striking the period and inserting ''; except that such section shall be applied without regard to subparagraph (B) thereof for purposes of applying this section and section 4979A with respect to securities acquired in a qualified gratuitous transfer (as defined in section 664(d)(3)(A)).''

(16) Subsection (a) of section 4979A of such Code is amended to read as follows:

''(a) IMPOSITION OF TAX.—If—

''(1) there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, or

''(2) there is an allocation described in section 663(d)(3)(C)(i),

there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved.''

(17) Subsection (c) of section 4979A of such Code is amended to read as follows:

''(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by—

''(1) the employer sponsoring such plan, or

''(2) the eligible worker-owned cooperative,

which made the written statement described in section 664(d)(3)(A)(vi) or in section 1042(b)(3)(B) (as the case may be).''

(18) Section 4979A of such Code is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) SPECIAL STATUTE OF LIMITATIONS FOR TAX ATTRIBUTABLE TO CERTAIN ALLOCATIONS.—The statutory period for the assessment of any tax imposed by this section on an allocation described in subsection (a)(2) of qualified employer securities shall not expire before the date which is 3 years from the later of—

''(1) the 1st allocation of such securities in connection with a qualified gratuitous transfer (as defined in section 664(d)(3)(A)), or

''(2) the date on which the Secretary is notified of the allocation described in subsection (a)(2).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made by trusts to, or for the use of, an employee stock ownership plan after the date of the enactment of this Act.

By Mr. MCCAIN:

S. 2111. A bill to amend the act commonly known as the Navajo-Hopi Land Settlement Act of 1974, and for other purposes; to the Committee on Indian Affairs.

THE NAVAJO-HOPI LAND SETTLEMENT ACT AMENDMENTS OF 1996

Mr. MCCAIN. Mr. President, I introduce legislation to make certain amendments to the Navajo-Hopi Land Settlement Act of 1974 in order to bring the relocation process to an orderly conclusion within 5 years. This legislation will phase out the Navajo-Hopi relocation program by September 30, 2001, and at that time transfer any remaining responsibilities to the Secretary of the Interior. This legislation will provide a time certain for eligible Navajo and Hopi individuals to apply for and receive relocation benefits and after that time the Federal Government will no longer be obligated to provide replacement housing for such individual. Under this legislation, the funds that would have been used to provide replacement housing to such individual will be kept in trust by the Secretary for distribution to the individual or their heirs.

Mr. President, the Navajo-Hopi Land Settlement Act of 1974 was enacted to resolve longstanding disputes that have divided the Navajo and Hopi Indian Tribes for more than a century. The origins of this dispute can be traced directly to the creation of the 1882 reservation for the Hopi Tribe and the creation of the 1934 Navajo Reservation. At the times these reservations were established there were Navajo families residing within the lands set aside for the Hopi Tribe and Hopi families residing on lands set aside for the Navajo Nation. Tensions between the two tribes continued to heighten until in 1958 Congress, in an effort to resolve this dispute, passed legislation that authorized the tribes to file suit in Federal court to quiet title to the 1882 reservation and to their respective claims and rights. That legislation has given rise to more than 35 years of continuous litigation between the tribes in an effort to resolve their respective rights and claims to the land.

In 1974, Congress enacted the Navajo-Hopi Land Settlement Act which established Navajo and Hopi negotiating teams under the auspices of a Federal mediator to negotiate a settlement to the 1882 reservation land dispute. The act also authorized the tribes to file suit in Federal court to quiet title to the 1934 reservation and to file any

claims for damages arising out of the dispute against each other or the United States. The act also established a three member Navajo-Hopi Indian Relocation Commission to oversee the relocation of members of the Navajo Nation who were residing on lands partitioned to the Hopi Tribe and members of the Hopi Tribe who were residing on lands partitioned to the Navajo Nation. Since its establishment, the relocation program has proven to be an extremely difficult and contentious process.

When this program was first established, it was estimated that the cost of relocation would be roughly $40 million to provide relocation benefits to approximately 6,000 Navajos estimated to be eligible for relocation. These figures woefully underestimated the number of families impacted by relocation and the tremendous delays that have plagued this program. To date, the United States has expended over $350 million to relocate more than 11,000 Navajo and Hopi tribal members. There remain over 640 eligible families who have never received relocation benefits and an additional 50 to 100 families who have never applied for relocation benefits. In addition, there are over 130 eligibility appeals still pending. The funding for this settlement has exceeded the original cost estimates by more than 900 percent.

Mr. President, we cannot continue to fund this program with no end in sight. I am convinced that our current Federal budgetary pressures require us to ensure that the Navajo-Hopi relocation housing program is brought to an orderly and certain conclusion. It is for that reason that I am introducing the Navajo-Hopi Land Settlement Act Amendments of 1996. This legislation will phase out the Navajo-Hopi Indian relocation program by September 30, 2001, and transfer the remaining responsibilities under the act to the Secretary of the Interior. Under the bill, the relocation commissioner shall transfer to the Secretary such funds as are necessary to construct replacement homes for any eligible head of household who has left the Hopi partitioned land but has not received a replacement home by September 30, 2001. These funds will be held in trust by the Secretary of the Interior for distribution to such individual or their heirs. In addition, the bill includes provisions establishing an expedited procedure for handling appeals of final eligibility determinations.

Mr. President, I have developed this legislation as an initial starting point for ongoing discussions with the representatives of the Office of Navajo and Hopi Indian Relocation and the administration, the Hopi Tribe, the Navajo Nation, and the affected families of both tribes. It is my hope that this bill will stimulate discussions that will lead to the passage of legislation in the 105th Congress that will bring this long and difficult process to a certain and ordered conclusion.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 2111

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

SECTION 1. SHORT TITLE.

SHORT TITLE.—This Act may be cited as the ''Navajo-Hopi Land Settlement Act Amendments of 1996''.

TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974

SEC. 101. REFERENCES.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the references shall be considered to be made to a section or other provision of the Act commonly known as the Navajo-Hopi Land Settlement Act of 1974 (Public law 93–531; 25 U.S.C. 640 et seq.).

SEC. 102. AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974.

(a) REPEALS.—Sections 1 through 5 (25 U.S.C. 640d through 640d–4) and section 30 (25 U.S.C. 640d–28) are each repealed.

(b) AMENDMENTS AND REDESIGNATIONS.—

(1) Section 6 (25 U.S.C. 640d–5) is amended—

(A) by striking the matter preceding subsection (a) through subsection (c);

(B) by inserting the following before subsection (d):

''SECTION 1. PARTITIONED LANDS.

(C) by redesignating subsection (d) as subsection (a);

(D) by striking subsections (e) and (f); and

(E) by redesignating subsections (g) and (h) as subsections (b) and (c), respectively; and

(F) in subsection (a), as so designated, by striking, ''In any partition of the surface rights to the joint use area,'' and inserting the following:

''With regard to the final order issued by the United States District Court for the District of Arizona (hereafter in this Act referred to as the 'District Court') on August 30, 1978, that provides for the partition of surface rights and interest of the Navajo and Hopi tribes (hereafter in this Act referred to as the 'Tribes') by lands laying within the reservation established by Executive order on December 16, 1982,''.

(2) Section 7 (25 U.S.C. 640d–6) is amended by striking ''SEC. 7. Partitioned'' and inserting the following:

''SEC. 2. JOINT OWNERSHIP OF MINERALS.

''Partitioned''.

(3) Section 8 (25 U.S.C. 640d–7) is amended—

(A) by striking ''SEC. 8. (a) Either tribe'' and inserting the following:

''SEC. 3. ACTIONS.

''(a) AUTHORIZATIONS TO COMMENCE AND DEFEND ACTIONS IN DISTRICT COURT.—Either tribe'';

(B) in subsection (b), by inserting ''ALLOCATION OF LAND TO RESPECTIVE RESERVATIONS UPON DETERMINATIONS OF INTERESTS.—'' after ''(b)'';

(C) in subsection (c)—

(i) by inserting ''ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.—'' after ''(c)''; and

(ii) by striking ''section 18'' each place it appears and inserting ''section 12'';

(D) in subsection (d), by inserting ''RULE OF CONSTRUCTION.—'' after ''(d)'';

(E) in subsection (e), by inserting ''PAYMENT OF LEGAL FEES, COURT COSTS, AND OTHER EXPENSES.—'' after ''(e)''; and

(F) by striking subsection (f).

(4) Section 9 (25 U.S.C. 640d–8) is amended by striking ''SEC. 9. Notwithstanding'' and inserting the following:

''SEC. 4. PAUITE INDIAN ALLOTMENTS.

''Notwithstanding''.

(5) Section 10 (25 U.S.C. 640d–9) is amended—

(A) by striking ''SEC. 10. (a) Subject'' and inserting the following:

''SEC. 5. PARTITIONED AND OTHER DESIGNATED LANDS.

''(a) NAVAJO TRUST LANDS.—'';

(B) in subsection (a), by striking ''sections 9 and 16(a)'' and inserting ''sections 4 and 10(a)'';

(C) in subsection (b)—

(i) by inserting ''HOPI TRUST LANDS.—'' after ''(b)'';

(ii) by striking ''sections 9 and 16(a)'' and inserting ''sections 4 and 10(a)'';

(iii) by striking ''sections 2 and 3'' and inserting ''section ''1'' and

(iv) by striking ''section 8'' and inserting ''section 3'';

(D) in subsection (c)—

(i) by inserting ''PROTECTION OF RIGHTS AND PROPERTY.—'' after ''(c)''; and

(ii) by striking the comma after ''pursuant thereto'' and all that follows through the end of the subsection and inserting a period;

(E) in subsection (d), by inserting ''PROTECTION OF BENEFITS AND SERVICES.—'' after ''(d)''; and

(F) in subsection (e)—

(i) by inserting ''TRIBAL JURISDICTION OVER PARTITIONED LANDS.—'' after ''(e)''; and

(ii) in the last sentence, by striking ''life tenants and''.

(6) Section 11 (25 U.S.C. 640d–10) is amended—

(A) by striking ''SEC. 11. (a) The Secretary'' and inserting the following:

''SEC. 6. RESETTLEMENT LANDS FOR NAVAJO TRIBE.

''(a) TRANSFER OF LANDS.—The Secretary'';

(B) in subsection (b), by inserting ''PROXIMITY OF LANDS TO BE TRANSFERRED OR ACQUIRED.—'' before ''(b)'';

(C) in subsection (c)—

(i) by inserting ''SELECTION OF LANDS TO BE TRANSFERRED OR ACQUIRED.—'' after ''(c)''; and

(ii) by striking the period at the end and inserting the following: '': *Provided further*, That the authority of the Commissioner to select lands under this subsection shall terminate on September 30, 2000.'';

(D) in subsection (d), by inserting ''REPORTS.—'' after ''(d)'';

(E) in subsection (e), by inserting ''PAYMENTS.—'' after ''(e)'';

(F) in subsection (f), by inserting ''Acquisition of Title To Surface and Subsurface Interests.—'' after ''(f)'';

(G) in subsection (g), by inserting ''LANDS NOT AVAILABLE FOR TRANSFER.—'' after ''(g)''; and

(H) in subsection (h)—

(i) by inserting ''ADMINISTRATION OF LANDS TRANSFERRED OR ACQUIRED.—'' after ''(h)'';

(ii) by striking the period at the end and inserting the following: '': *Provided further*, That, in order to facilitate relocation, in the discretion of the Commissioner, the Commissioner may grant homesite leases on land acquired pursuant to this section to members of the extended family of a Navajo who is certified as eligible to receive benefits under this Act, except that the Commissioner may not expend, or otherwise make available funds made available by appropriations to the Commissioner to carry out this Act, to provide housing to those extended family members.''; and

(I) in subsection (i)—

(i) by inserting ''NEGOTIATIONS REGARDING LAND EXCHANGES OR LEASES.'' after ''(i); and

(ii) by striking ''section 23'' and inserting ''section 18''.

(7) Section 12 (25 U.S.C. 640d–11) is amended—

(A) by striking ''SEC. 12. (a) There is hereby'' and inserting the following:

''SEC. 7. OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION.

''(a) ESTABLISHMENT.—There is hereby'';

(B) in subsection (b), by inserting ''APPOINTMENT.—'' after ''(b)'';

(C) in subsection (c), by inserting ''CONTINUATION OF POWERS.—'' after ''(c)'';

(D) in subsection (d), by inserting ''POWERS OF COMMISSIONER.—'' after ''(d)'';

(E) in subsection (e), by inserting ''ADMINISTRATION.—'' after ''(e)'';

(F) in subsection (f) and by inserting the following:

''(f) TERMINATION.—The Office of Navajo and Hopi Indian Relocation shall cease to exist on September 30, 2001. On that date, any functions of the Office that have not been fully discharged, as determined in accordance with this Act shall be transferred to the Secretary of the Interior in accordance with title III of the Navajo-Hopi Land Settlement Act Amendments of 1996.''; and

(G) by adding at the end the following new subsections:

''(g) OFFICE OF RELOCATION.—Effective on October 1, 2001, there is established in the Department of the Interior an Office of Relocation. The Secretary of the Interior, acting through the Office of Relocation, shall carry out the functions of the Office of Navajo and Hopi Indian Relocation transferred to the Secretary of the Interior in accordance with title III of the Navajo-Hopi Land Settlement Act Amendments of 1996.

''(h) TERMINATION OF OFFICE OF RELOCATION.—The Office of Relocation shall cease to exist on the date on which the Secretary of the Interior determines that the functions of the Office have been fully discharged.''.

(8) Section 13 (25 U.S.C. 640d–12) is amended—

(A) by striking ''SEC. 13. (a) Within'' and inserting the following:

''SEC. 13. REPORT CONCERNING RELOCATION OF HOUSEHOLD AND MEMBERS OF EACH TRIBE.

''(a) IN GENERAL.—Within'''

(B) in subsection (b), by inserting ''CONTENT OF REPORT.—'' after ''(b)''; and

(C) in subsection (c), by inserting ''DETAILED PLAN FOR RELOCATION.—'' after ''(c)'';

(9) Section 14 (25 U.S.C. 640d–13) is amended—

(A) by striking ''SEC. 14. (a) Consistent'' and inserting the following:

''SEC. 8. RELOCATION OF HOUSEHOLDS AND MEMBERS.

''(a) AUTHORIZATION.—;

(B) in subsection (a)—

(i) in the first sentence—

(I) by striking ''section 8'' each place it appears and inserting ''section 3''; and

(II) by striking ''sections 2 and 3'' and inserting ''section 1''; and

(ii) by striking the second sentence;

(C) in subsection (b)—

(i) by inserting ''ADDITIONAL PAYMENTS TO HEADS OF HOUSEHOLDS'' after ''(b)''; and

(ii) by striking ''section 15'' and inserting ''section 9'';

(D) in subsection (c), by inserting ''PAYMENTS FOR PERSONS MOVING AFTER A CERTAIN DATE.—''; and

(E) by adding at the end the following new subsection:

''(d) PROHIBITION.—No payment for benefits under this Act may be made to any head of a household if, as of September 30, 2001, that head has not been certified as eligible to receive those payments.''.

(10) In section 15 (25 U.S.C. 640d–14)—

(A) by striking ''SEC. 15. (a) The Commission'' and inserting the following:

''SEC. 9. RELOCATION HOUSING.

''(a) PURCHASE OF HABITATION AND IMPROVEMENTS.—The Commission'';

(B) in the last sentence of subsection (a), by striking ''as determined under section 13(b)(2) of this title'';

(C) in subsection (b), by inserting ''REMBURSEMENT FOR MOVING EXPENSES AND PAYMENT FOR REPLACEMENT DWELLING.—'' after ''(b)'';

(D) in subsection (c)—

(i) by inserting ''STANDARDS; CERTAIN PAYMENTS.—'' after ''(c)'';

(ii) by striking ''section 8'' and inserting ''section 3''; and

(iii) by striking ''section 3 or 4 of this title'' and inserting ''section 1'';

(E) in subsection (d), by inserting ''METHODS OF PAYMENT.—''after ''(d)'';

(F) by striking subsection (g);

(G) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(H) by inserting after subsection (d) the following new subsections:

''(e) BENEFITS HELD IN TRUST.—

''(1) IN GENERAL.—On September 30, 2001, the Commissioner shall notify the Secretary of the Interior (hereafter in this subsection referred to as the 'Secretary') of the identity of any head of household that is certified as eligible to receive benefits under this Act (hereafter in this subsection referred to as an 'eligible head of household') who, as of such date—

''(A) does not reside on lands that have been partitioned to the tribe of that eligible head of household; and

''(B) has not received a replacement home.

''(2) TRANSFER OF FUNDS.—On the date specified in paragraph (1), the Commissioner shall transfer to the Secretary any unexpended funds that were made available to the Commissioner for the purpose of making payments under this Act to the eligible heads of household referred to in paragraph (1).

''(3) DISPOSITION OF TRANSFERRED FUNDS.—

''(A) IN GENERAL.—The Secretary shall hold the funds transferred under paragraph (2) in trust for the eligible heads of household referred to in paragraph (1). The Secretary shall provide payments in amounts that would have otherwise have been made to an eligible head of household before the date specified in paragraph (1) from the amounts held in trust—

''(i) upon request of the eligible head of household, to be used for a replacement home; or

''(ii) if the eligible head of household does not make a request under clause (i), upon the death of the eligible head of household, in accordance with subparagraph (B).

''(B) DISTRIBUTION OF FUNDS UPON THE DEATH OF AN ELIGIBLE HEAD OF HOUSEHOLD.—If, upon the death of an eligible head of household, the Secretary holds funds in trust under this paragraph for that eligible head of household, the Secretary shall—

''(i) determine and notify the heirs of the head of household; and

''(ii) distribute the funds to—

''(I) the heirs who have attained the age of 18; and

''(II) each remaining heir, at the time that the heir attains the age of 18.

''(f) NOTIFICATION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Navajo-Hopi Land Settlement Act Amendments of 1996, the Commissioner shall, in accordance with section 700.138 of title 25, Code of Federal Regulations, notify each eligible head of household who has not entered into a lease with the Hopi Tribe to reside on lands partitioned to the Hopi Tribe.

''(2) LIST.—Upon the expiration of the notice periods referred to in section 700.139 of title 25, Code of Federal Regulations, the Commissioner shall forward to the Secretary and the United States Attorney for the District of Arizona a list containing the name and address of each eligible head of household who—

''(A) continues to reside on lands that have not been partitioned to the tribe of that eligible head of household; and

''(B) has not entered into a lease to reside on those lands.

''(3) CONSTRUCTION OF REPLACEMENT HOMES.—Before July 1, 1999, the Commissioner may commence construction of a replacement home on the lands acquired under section 6 not later than 90 days after receiving a notice of the imminent removal of a relocatee from the lands partitioned under this Act to the Hopi Tribe from—

''(A) the Secretary; or

''(B) the United States Attorney for the District of Arizona.'';

(I) in subsection (g), as redesignated by subparagraph (G)—

(i) by inserting ''DISPOSAL OF ACQUIRED DWELLINGS AND IMPROVEMENTS.—'' after ''(g)''

(ii) by striking ''section 8'' and inserting ''section 3''; and

(iii) by striking ''section 3 or 4 of this title'' and inserting ''section 1'';

(J) in subsection (h), as redesignated by subparagraph (G), by inserting ''PREFERENTIAL TREATMENT FOR HEADS OF HOUSEHOLDS OF THE NAVAJO TRIBE EVICTED FROM THE HOPE RESERVATION BY JUDICIAL DECISION.—''; AND

(K) by adding after subsection (h) the following new subsections:

''(i) APPEALS.—

''(1) IN GENERAL.—The Commissioner shall establish an expedited hearing procedure that shall apply to an appeal relating to the denial of eligibility for benefits under this Act (including the regulations issued under this Act) that is—

''(A) pending on the date of enactment of Navajo-Hopi Land Settlement Act Amendments of 1996; or

''(B) filed after the date specified in subparagraph (A).

''(2) FINAL DETERMINATIONS.—The hearing procedure established under paragraph (1) shall—

''(A) as necessary, provide for a hearing before an impartial third party; and

''(B) ensure the achievement of a final determination by the Office of Navajo and Hopi Indian Relocation for each appeal described in that paragraph not later than January 1, 1999.

''(3) NOTICE.—

''(A) IN GENERAL.—Not later than 30 days after the date of enactment of the Navajo-Hopi Land Settlement Act Amendments of 1996, the Commissioner, shall provide written notice to any individual that the Commissioner determines may have the right to a determination of eligibility for benefits under this Act.

''(B) REQUIREMENTS FOR NOTICE.—The notice provided under this paragraph shall—

''(i) specify that a request for a determination of eligibility referred to in subparagraph (A) shall be presented to the Commission not later than 180 days after the date of issuance of the notice; and

''(ii) be provided—

''(I) by mail (which may be carried out by a means other than certified mail) to the last known address (if available) of the recipient; and

''(II) in a newspaper of general circulation in the geographic area in which an address referred to in subclause (I) is located.

''(j) PROCUREMENT OF SERVICES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, to ensure the full and fair evaluation of the requests referred to in subsection (i)(3)(A) (including an appeal hearing before an impartial third party referred to in subsection (i)(2)(A)), the Commissioner may enter into such contracts or

agreements to procure such services, and employ such personnel (including attorneys), as are necessary.

''(2) DETAIL OF ADMINISTRATIVE LAW JUDGES OR HEARING OFFICERS.—The Commissioner may request the Secretary to act through the Director of the Office of Hearings and Appeals of the Department of the Interior, to make available, by detail or other appropriate arrangement, to the Office of Navajo and Hopi Indian Relocation, an administrative law judge or other hearing officer with appropriate qualifications to review the requests referred to in subsection (i)(3)(A).

''(k) APPEAL TO UNITED STATES CIRCUIT COURT OF APPEALS.—

''(1) IN GENERAL.—Subject to paragraph (3), any individual who, under the procedures established by the Commissioner under this section, is determined not to be eligible to receive benefits under this Act may appeal that determination to the United States Circuit Court of Appeals for the Ninth Circuit (hereafter in this subsection referred to as the 'Circuit Court').

''(2) REVIEW.—

''(A) IN GENERAL.—The Circuit Court shall, with respect to each appeal referred to in paragraph (1)—

''(i) review the entire record (as certified to the Circuit Court under paragraph (3) on which a determination of the ineligibility of the appellant to receive benefits under this Act was based; and

''(ii) on the basis of that review, affirm or reverse that determination.

''(B) STANDARD OF REVIEW.—The Circuit Court shall affirm any determination that the Circuit Court determines to be supported by substantial evidence.

''(3) NOTICE OF APPEAL.—

''(A) IN GENERAL.—An individual who appeals a determination of ineligibility under paragraph (1) shall, not later than 30 days after the date of that determination, file a notice of appeal with—

''(i) the Circuit Court; and

''(ii) the Commissioner.

''(B) CERTIFICATION OF RECORD.—Upon receipt of a notice provided under subparagraph (A)(ii), the Commissioner shall certify to the Circuit Court the record on which the determination that is the subject of the appeal was made.

''(C) REVIEW PERIOD.—The Circuit Court shall conduct a review and render a decision under paragraph (2) not later than 60 days after receiving a certified record under subparagraph (B).

''(D) BINDING DECISION.—A decision made by the Circuit Court under this subsection shall be final and binding on all parties.

(11) Section 16 (25 U.S.C. 640d–15) is amended—

(A) by striking ''SEC. 16. (a) The Navajo'' and inserting the following:

''SEC. 10. PAYMENT OF FAIR RENTAL VALUE FOR USE OF LANDS.

''(a) IN GENERAL.—The Navajo'';

(B) in subsection (a), by striking ''sections 8 and 3 or 4'' and inserting ''sections 1 and 3''; and

(C) in subsection (b)—

(i) by inserting ''PAYMENT.—'' after ''(b)''; and

(ii) by striking sections 8 and 3 or 4'' and inserting ''sections 1 and 3''.

(12) Section 17 (25 U.S.C. 640d–16) is amended—

(A) by striking ''SEC. 17. (a) Nothing'' and inserting the following:

''SEC. 11. STATUTORY CONSTRUCTION.

(a) IN GENERAL.—Nothing''; and

(B) in subsection (b), by inserting ''FEDERAL EMPLOYEES.— after ''(b)''.

(13) Section 18 (25 U.S.C. 640d–17) is amended—

(A) by striking ''SEC. 18. (a) Either'' and inserting the following:

''SEC. 12. ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.

''(a) Either'';

(B) in the matter preceding paragraph (1) in subsection (a), by striking ''section 3 or 4'' and inserting ''section 1'';

(C) in subsection (b)—

(i) by inserting ''DEFENSES.—'' after ''(b)'';

(ii) by striking ''section 3 or 4'' and inserting ''section 1'';

(D) in subsection (c), by inserting ''FURTHER ORIGINAL, ANCILLARY, OR SUPPLEMENTARY ACTS TO INSURE QUIET ENJOYMENT.—'' after ''(c)'';

(E) in subsection (d), by inserting ''UNITED STATES AS PARTY; JUDGMENTS AGAINST THE UNITED STATES'' after ''(d)''; and

(F) in subsection (e), by inserting ''REMEDIES'' after ''(e)''.

(14) Section 19 (25 U.S.C. 640d–18) is amended—

(A) by striking ''SEC. 19. (a) Notwithstanding'' and inserting the following:

''SEC. 14. REDUCTION IN LIVESTOCK WITH JOINT USE.

''(a) IN GENERAL.—Notwithstanding'';

(B) in subsection (a), by striking ''section 3 or 4'' and inserting ''section 1'';

(C) in subsection (b)—

(i) by inserting ''SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—'' after ''(b)'';

(ii) by striking ''sections 8 and 3 or 4'' and inserting ''sections 1 and 3'';

(D) in subsection (c)—

(i) by inserting ''COMPLETION OF SURVEYING, MONUMENTING, AND FENCING OPERATIONS; LIVESTOCK REDUCTION PROGRAM.—'' after ''(c)'';

(ii) by striking ''section 4 of this title'' and inserting ''section 1''; and

(iii) by striking ''section 8'' and inserting ''section 3''.

(15) Section 20 (25 U.S.C. 640d–19) is amended by striking ''SEC. 20. The members'' and inserting the following:

''SEC. 15. PERPETUAL USE OF CLIFF SPRINGS FOR RELIGIOUS CEREMONIAL USES; PIPING OF WATER FOR USE BY RESIDENTS.

The members''.

(16) Section 21 (25 U.S.C. 640d–20) is amended by striking ''SEC. 21. Notwithstanding'' and inserting the following;

''SEC. 16. USE AND RIGHT OF ACCESS TO RELIGIOUS SHRINES ON RESERVATION OF OTHER TRIBE.

Notwithstanding''.

(17) Section 22 (25 U.S.C. 640d–21) is amended by striking ''SEC. 22. The availability '' and inserting the following:

''SEC. 17. EXCLUSION OF PAYMENTS FROM CERTAIN FEDERAL DETERMINATIONS OF INCOME.

The availability''.

(18) Section 23 (25 U.S.C. 649d–22) is amended—

(A) by striking ''SEC. 23. The Navajo'' and inserting the following:

''SEC. 18. AUTHORIZATION FOR EXCHANGE OF RESERVATION LANDS.

The Navajo''; and

(B) by striking ''sections 14 and 15'' and inserting ''sections 8 and 9''.

(19) Section 24 (25 640d–23) is amended by striking ''SEC. 24. If'' and inserting the following:

''SEC. 19. SEVERABILITY OF PROVISIONS.

If''.

(20) Section 25 (25 U.S.C. 640d–24) is amended to read as follows:

''SEC. 20 AUTHORIZATIONS OF APPROPRIATIONS.

''(a) IN GENERAL.—

''(1) RELOCATION OF HOUSEHOLDS AND MEMBERS.—For the purposes of carrying out the provisions of section 9, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 through 2002.

''(2) RETURN TO CARRYING CAPACITY AND INSTITUTION OF CONSERVATION PRACTICES.—For the purposes of carrying out section 14(a), there are authorized to be appropriated $10,000,000.

''(3) SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—For the purpose of carrying out section 14(b), there are authorized to be appropriated $500,000.

''(4) RELOCATION OF HOUSEHOLDS AND MEMBERS.—For the purposes of carrying out section 8(b) there are authorized to be appropriated $13,000,000.''.

(21) Section 26 (88 Stat. 1723) is repealed.

(22) Section 27 (25 U.S.C. 640d–25) is amended—

(A) by striking ''SEC. 27.'' and all that follows through subsection (b)'' and inserting the following:

''SEC. 21. FUNDING AND CONSTRUCTION OF HOPI HIGH SCHOOL AND MEDICAL CENTER.''; and

(B) in subsection (c), by striking ''(c)''.

(23) Section 28 (25 U.S.c. 640d–26) is amended-

(A) by striking ''SEC. 28. (a) No action'' and inserting the following:

''SEC. 22. ENVIRONMENTAL IMPACT; APPLICABILITY OF WILDERNESS STUDY; CANCELLATION OF GRAZING LEASES AND PERMITS.

''(a) IN GENERAL.—No action'';

(B) in subsection (b), by inserting ''EFFECT OF WILDERNESS STUDY.—'' after ''(b)''; and

(C) by adding at the end the following new subsection:

''(c) CONSTRUCTION REQUIREMENTS.—

''(1) IN GENERAL.—Any construction activities that are undertaken under this Act shall be conducted in compliance with sections 3 through 7 of Public Law 86–523 (16 U.S.C. 469a–1 through 469c).

''(2) COMPLIANCE WITH OTHER REQUIREMENTS.—With respect to any construction activity referred to in paragraph (1), compliance with the provisions referred to in that paragraph shall be considered to satisfy the applicable requirements of—

''(A) the Act entitled ''an Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes'', approved October 15, 1966 (Public Law, 89–665); and

''(B) the Act entitled ''An Act for the preservation of American antiquities'', approved June 8, 1906 (34 Stat. 225, chapter 3060).''.

(24) Section 29 (25 U.S.C. 640d–27) is amended—

(A) by striking ''SEC. 29. (a) In any'' and inserting the following:

''SEC. 23. ATTORNEY FEES, COSTS AND EXPENSES FOR LITIGATION OR COURT ACTION.

''(a) PAYMENT BY SECRETARY; AUTHORIZATION OF APPROPRIATIONS.—In any;

(B) in subsection (b) by inserting ''AWARD BY COURT.—'' after ''(b)'';

(C) in subsection (c) by inserting ''EXCESS DIFFERENCE.—'' after ''(c)''; and

(D) in subsection (d)—

(i) by inserting ''LITIGATION OF COURT ACTIONS APPLICABLE.—'' after ''(d)''; and

(ii) by striking ''section 8'' and inserting ''section 3''.

(25) Section 31 (25 U.S.C. 640d–29) is amended—

(A) by striking ''SEC. 31. (a) Except'' and inserting the following:

''SEC. 24. LOBBYING.

''(a) IN GENERAL.—Except''; and

(B) in subsection (b), by inserting ''APPLICABILITY.—'' before ''(b)''.

(26) The first section designated as section 32 (25 U.S.C. 640d–30), as added by section 7 of

the Navajo-Hopi Relocation Act Amendments of 1988, is amended—

(A) by striking ''SEC. 32. (a) There'' and inserting the following:

''SEC. 25. NAVAJO REHABILITATION TRUST FUND.

(a) IN GENERAL.—There'';

(B) in subsection (b), by inserting ''DEPOSIT OF INCOME INTO FUND.—'' after ''(b)'';

(C) in subsection (c), by inserting ''INVESTMENT OF FUNDS.—'' after ''(c)'';

(D) in subsection (d), by inserting ''AVAILABILITY OF FUNDS.—'' after ''(d);

(E) in subsection (e), by inserting ''EXPENDITURE OF FUNDS.—'' after ''(e)'';

(F) in subsection (f), by inserting ''TERMINATION OF TRUST FUND.—'' after ''(f)''; and

(G) in subsection (g), by inserting ''AUTHORIZATION OF APPROPRIATIONS.—'' after ''(g)''.

(27) Section 32 (25 U.S.C. 640d–31), as added by section 407 of the Arizona-Idaho Conservation Act of 1988m, is amended by striking ''SEC. 32. Nothing'' and inserting the following:

''SEC. 26. AVAILABILITY OF FUNDS FOR RELOCATION ASSISTANCE REGARDLESS OF PLACE OF RESIDENCE.

Nothing''.

TITLE II—PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SEC. 201. RETENTION PREFERENCE.

The second sentence of section 3501(b) of title 5, United States Code, is amended—

(1) by striking by striking ''or'' after ''Senate'' and inserting a comma;

(2) by striking ''or'' after ''Service'' and inserting a comma; and

(3) by inserting '', or to an employee of the Office of Navajo and Hopi Indian Relocation before the period.

SEC. 202. SEPARATION PAY.

(a) IN GENERAL.—Chapter 55 title 5, United States Code, is amended by adding at the end the following new section:

''§ 5598 Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), the Commissioner of the Office of Navajo and Hopi Indian Relocation shall establish a program to offer separation pay to employees of the Office of Navajo and Hopi Indian Relocation (hereafter in this section referred to as the 'Office') in the same manner as the Secretary of Defense offers separation pay to employees of a defense agency under section 5597.

''(b) SEPARATION PAY.—

''(1) IN GENERAL.—Under the program establish under subsection (a), the Commissioner of the Office may offer separation pay only to employees within the occupational groups or at pay levels that will minimize disruption of ongoing Office programs at the time that the separation pay is offered.

''(2) REQUIREMENT.—Any separation pay offered under this subsection shall—

''(A) be paid in a lump sum;

''(B) be in an amount equal to $25,000, if paid on or before December 31, 1998;

''(C) be in an amount equal to $20,000, if paid after December 31, 1998, and before January 1, 2000;

''(D) be in an amount equal to $15,000, if paid after December 31, 1999, and before January 1, 2001;

''(E) not—

''(i) be a basis for payment;

''(ii) be considered as income for the purposes of computing any other type of benefit provided by the Federal Government; and

''(F) if an individual is otherwise entitled to receive any severance pay under section 5595 on the basis of any other separation, not be payable in addition to the amount of the severance pay to which that individual is entitled under section 5595.

''(c) PROHIBITION.—No amount shall be payable under this section to any employee of the Office for any separation occurring after December 30, 2000.''

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 5 is amended by adding at the end the following new item:

''5598. Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation.''.

SEC. 203. IMMEDIATE RETIREMENT.

Section 8336(j)(1)(B) of title 5, United States Code, is amended by inserting ''or was employed by the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1990, and ending on the date of separation of that employee'' before the final comma.

SEC. 204. COMPUTATION OF ANNUITY.

Section 8339(d) of title 5, United States Code is amended by adding at the end the following new paragraph:

''(8) The annuity of an employee of the Office of Navajo and Hopi Indian Relocation described in section 8336(j)(1)(B) shall be determined under subsection 9a), except that with respect to service of that employee on or after January 1, 1990, the annuity of that employee shall be—

''(A)(i) 2½ percent of the employee's average pay; multiplied by

''(ii) so much of the employee's service on or after January 1, 1990, as does not exceed 10 years; plus

''(B)(i) a percent of the average pay of the employee; multiplied by

''(ii) so much of the service of the employee on or after January 1, 1990, as exceeds 10 years.''.

SEC. 205. IMMEDIATE RETIREMENT.

Section 8412 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(i) An employee of the Office of Navajo and Hopi Indian Relocation is entitled to an annuity if that employee—

''(1) has been continuously employed in the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1990, and ending on the date of separation of that individual; and

''(2)(A) has completed 25 years of service at any age; or

''(B) has attained the age of 50 years and has completed 20 years of service.''.

SEC. 206. COMPUTATION OF BASIC ANNUITY.

Section 8415 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(h) The annuity of an employee retiring under section 8412(i) shall be determined under subsection (d), except that with respect to service during the period beginning on January 1, 1990, the annuity of the employee shall be—

''(1)(A) 2 percent of the average pay of that individual; multiplied by

''(B) so much of the total service of that individual as does not exceed 10 years; plus

''(2)(A) 1½ percent of the average pay of the individual; multiplied by

''(B) so much of the total service of that individual as exceeds 10 years.''.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this title, unless otherwise provided or indicated by the context—

(1) the term ''Federal agency'' has the meaning given to the term ''agency'' by section 551(1) of title 5, United States Code;

(2) the term ''function'' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term ''office'' includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

SEC. 302. TRANSFER OF FUNCTIONS.

Effective on the date specified in section 307, there are transferred to the Department of the Interior all functions which Office of Navajo and Hopi Relocation exercised before the date of the enactment of this title (including all related functions of any officer or employee of the Office of Navajo and Hopi Relocation) relating to functions of the Office that have not been fully discharged, as determined in accordance with the Act commonly known as the ''Navajo-Hopi Land Settlement Act of 1974'' (Public law 93–531; 25 U.S.C. 640 et seq.).

SEC. 303. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.

Except as otherwise provided in this Act and the amendments made by this Act, the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the Department of the Interior. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 304. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or be a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Interior or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDING NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Office of Navajo and Hopi Relocation at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in

all such suits, proceedings shall be had, appeal taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against Office of Navajo and Hopi Relocation, or by or against any individual in the official capacity of such individual as an Office of Navajo and Hopi Relocation, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by Office of Navajo and Hopi Relocation relating to a function transferred under this title may be continued by the Department of the Interior with the same effect as if this title had not been enacted.

SECTION-BY-SECTION SUMMARY OF THE NAVAJO-HOPI LAND SETTLEMENT ACT AMENDMENTS OF 1996

Section 1. Short Title. This section provides that the bill may be cited as the ''Navajo-Hopi Land Settlement Act Amendments of 1996''.

TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974

Section 101. References. This section provides that whenever an amendment or repeal is expressed in this Act it shall be considered to be made to a section of the Navajo-Hopi Land Settlement Act of 1974 (25 U.S.C. §§640 et seq.).

Section 102. Amendments to the Navajo and Hopi Settlement Act. This section sets forth amendments to the Navajo-Hopi Land Settlement Act of 1974.

Subsection (a) repeals six sections of the Act in their entirety: Section 1 (25 U.S.C. §640d) relating to the appointment and duties of the mediator; Section 2 (25 U.S.C. §640d–1) relating to the appointment and duties of the Navajo and Hopi negotiating teams; Section 3 (25 U.S.C. §640–d–2) relating to the implementation of any agreements reached by the tribal negotiating teams; Section 4 (25 U.S.C. §640d–3) relating to the procedures to be used by the mediator and the Federal District Court in the event that the tribal negotiating teams did not reach agreement; Section 5 (25 U.S.C. §640d–4) relating to other recommendations by the mediator to the Federal District Court; Section 30 (25 U.S.C. §640d–28) relating to the provision of life estates to Navajos residing on lands partitioned to the Hopi Tribe.

Subsection (b) redesignates section 6 (25 U.S.C. §640d–5) as section 1 and amends the provisions of this section relating to the partition of the former Joint Use Area of the 1882 Executive Order reservation.

Paragraph (2) amends section 7 by renaming it ''Joint Ownership of Minerals'' and redesignates it as section 2.

Paragraph (3) redesignates section 8 (25 U.S.C. §640d–7) as section 3 and amends the section by repealing subparagraph (f) which contained special provisions related to the payment of legal fees for the San Juan Southern Paiute Tribe prior to the time of its Federal recognition.

Paragraph (4) redesignates section 9 (25 U.S.C. §640d–8) as section 4 and retitles it ''Paiute Indian Allotments''.

Paragraph (5) redesignates section 10 (25 U.S.C. §640d–9) as section 5 and by amending it to strike references to Navajo life estates.

Paragraph (6) redesignates section 11 (25 U.S.C. §640d–10) as section 6 and amending it to provide for the termination of the Commissioner's authority to select lands for the Navajo Nation on September 30, 2000. This section of the Act is further amended to authorize the Commissioner to make homesites available to extended family members of those Navajos who are certified eligible for relocation benefits in order to facilitate the relocation program.

Paragraph (7) redesignates section 12 (25 U.S.C. §640d–11) as section 7. This section of the Act is amended to provide for: the termination of the Office of Navajo and Hopi Indian Relocation on September 30, 2001; the transfer of any remaining duties or functions, resources, funds, property and staff of the Office to the Secretary of the Department of the Interior in accordance with Title III of this Act; the establishment of an Office of Relocation in the Office of the Secretary which shall remain in existence until the Secretary determines that its functions have been fully discharged.

Paragraph (8) retitles section 13 (25 U.S.C. §640d–12) as ''Report Concerning Relocation of Households and Members of Each Tribe.''

Paragraph (9) redesignates section 14 (25 U.S.C. §640d–13) as section 8. This section of the Act is amended to delete a reference in subsection (a) to the filing of the relocation plan and the completion of the relocation program. A new subsection (d) is added to prohibit the payment of any benefits to any head of household who has not been certified eligible by September 30, 2001.

Paragraph (10) redesignates section 15 (25 U.S.C. §640d–14) as section 9. This section of the Act is amended by adding a new subsection (e) which requires the Commissioner to notify the Secretary of any eligible relocatees who have left the lands partitioned to the tribe of which they are not members, but who have not received a replacement home by September 30, 2001 and to transfer to the Secretary the funds necessary to provide such homes. The Secretary is authorized to hold such funds in trust for each head of household until such time as the head of household requests the construction of a replacement home. If the Secretary still holds the funds in trust for a head of household at the time of the death of the head of household, then the funds shall be distributed to the heirs of the head of household upon attaining 18 years of age and shall no longer be held in trust.

Paragraph (10) further amends the Act by adding a new subsection (f) which directs the Commissioner to implement the provisions of 25 C.F.R. §700.138 within 180 days after the date of enactment of these amendments. Upon the expiration of all time periods in 25 C.F.R. §700.138, the Commissioner shall provide the notices to the Secretary and the United States Attorney for the District of Arizona which are required by 25 C.F.R. §700.139. At any time prior to July 1, 1999, the Commissioner is authorized to construct a replacement home within 90 days of the receipt of a notice from the Secretary or the United States Attorney for the District of Arizona that the removal of a relocatee from the lands partitioned to the Hopi Tribe is imminent.

Finally, paragraph (10) provides that the Act is also amended by striking the existing subsection (g) and inserting in lieu thereof a new subsection (i) which authorizes the Commissioner to establish an expedited procedure for reaching final determinations on any appeals from denials of eligibility. The Commissioner must provide a final notice, by mail and/or publication, to anyone who may have a right to an eligibility determination within 30 days from the enactment of the amendments and all requests for such determinations must be filed within 180 days from the date of such notice.

A new subsection (j) is added to this section of the Act to authorize the Commissioner to contract for services and employ personnel in order to provide for eligibility determinations and appeals. Upon request, the Director of the Office of Hearings and Appeals of the Department of the Interior shall provide a qualified hearing officer to the Commissioner to assist in hearings to review eligibility determinations.

A new subsection (k) is added to this section of the Act to provide for a final and expedited appeal of any final eligibility determinations by the Office to the Circuit Court of Appeals for the Ninth Circuit. All such appeals shall be filed within 30 days of the final action by the Office and the Court shall complete its review within 60 days after receipt of the certified record from the Office. All such appeals shall be reviewed on the basis of the certified record and any denial of eligibility which is supported by substantial evidence shall be affirmed.

Paragraph (11) redesignates section 16 (25 U.S.C. §640d–15) as section 10 and retitles it ''Payment of Fair Rental Value for Use of Lands''.

Paragraph (12) redesignates section 17 (25 U.S.C. §640d–16) as section 11 and retitles it ''Statutory Construction''.

Paragraph (13) redesignates section 18 (25 U.S.C. §640d–17) as section 12 and retitles it ''Actions for Accounting, Fair Value of Grazing, and Claims for Damages to Land''.

Paragraph (14) redesignates section 19 (25 U.S.C. §640d–18) as section 14 and retitles it ''Reduction in Livestock with Joint Use''.

Paragraph (15) redesignates section 20 (25 U.S.C. §640d–19) as section 15 and retitles it ''Perpetual Use of Cliff Springs for Religious Ceremonial Uses; Piping of Water for Use by Residents''.

Paragraph (16) redesignates section 21 (25 U.S.C. §640d–20) as section 16 and retitles it ''Use and Right of Access to Religious Shrines on Reservation of Other Tribe''.

Paragraph (17) redesignates section 22 (25 U.S.C. §640d–21) as section 17 and retitles it ''Exclusion of Payments from Certain Federal Determination of Income''.

Paragraph (18) redesignates section 23 (25 U.S.C. §640d–22) as section 18 and retitles it ''Authorization for Exchange of Reservation Lands''.

Paragraph (19) redesignates section 24 (25 U.S.C. §640d–23) as section 19 and retitles it ''Severability of Provisions''.

Paragraph (20) redesignates section 25 (25 U.S.C. §640d–24) as section 20 and amends this section in subsection (a) by providing authorizations for appropriations of such sums as may be necessary for fiscal years 1998 through 2002. The authority for appropriations for the mediator, life estates and special discretionary funds for the Commissioner is repealed.

Paragraph (21) repeals section 26 (88 Stat. 1723).

Paragraph (22) redesignates section 27 (25 U.S.C. §640d–25) as section 21 and amends it by repealing subsections (a) and (b) and retitling it ''Funding and Construction of Hopi High School and Medical Center.''

Paragraph (23) redesignates section 28 (25 U.S.C. §640d–26) as section 22 and adding a new subsection (c) to require all construction activities to be undertaken in compliance with 16 U.S.C. §§469a–1 through 469c and declaring that such compliance shall also be deemed to be compliance with P.L. 89–665, as amended, and P.L. 96–95, as amended.

Paragraph (24) redesignates section 29 (25 U.S.C. §640d–27) as section 23 and retitles it ''Attorney Fees, Costs and Expenses for Litigation or Court Action''.

Paragraph (25) redesignates section 31 (25 U.S.C. §640d–29) as section 24 and retitles it ''Lobbying''.

Paragraph (26) redesignates section 32 (25 U.S.C. §640d–30) as section 25 and retitles it ''Navajo Rehabilitation Trust Fund''.

Paragraph (27) redesignates section 32 (25 U.S.C. §640d–31) as section 26 and retitles it

''Availability of Funds for Relocation Assistance Regardless of Place of Residence''.

TITLE II. PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

This Title contains six amendments to Title 5 of the United States Code, as follows:

Section 201. Retention Preference. This section amends paragraph (b) of section 3501 to exclude employees of the Office of Navajo and Hopi Indian Relocation from reduction-in-force regulations.

Section 202. Separation Pay. This section amends section 5597 to provide a new paragraph (a)(3) and new subsections (h) and (i) to include employees of the Office of Navajo and Hopi Indian Relocation in the provisions for voluntary separation incentive payments.

Section 203. Immediate Retirement. This section amends section 8336 to include employees of the Office of Navajo and Hopi Indian Relocation in paragraph (1) to make them eligible for early or optional retirement programs.

Section 204. Computation of Annuity. This section amends subsection (d) of section 8336 to modify the retirement computations for those employees of the Office of Navajo and Hopi Indian Relocation who can retire under early or optional retirement regulations.

Section 205. Immediate Retirement. This section amends section 8412 by adding a new subsection (g) to include employees of the Office of Navajo and Hopi Indian Relocation in the provisions for annuities.

Section 206. Computation of Basic Annuity. This section amends section 8415 by adding a new subsection (g) to modify the annuity computations for those employees of the Office of Navajo and Hopi Indian Relocation who are eligible for annuities.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

Section 301. Definitions. This section sets out the definitions used in this title.

Section 302. Transfer of Functions. This section provides for the transfer of all of the functions of the Office of Navajo and Hopi Relocation that have not been fully discharged to the Department of the Interior.

Section 303. Transfer and Allocations of Appropriations. This section provides that the assets, liabilities, contracts, property, records and unexpended balances of appropriations, allocations and other funds related to the functions transferred under this title, shall be transferred to the Department of the Interior.

Section 304. Savings Provisions. This section provides that all orders, determinations, rulings, regulations, permits, agreements, grants, contracts, licenses, privileges and other administrative actions shall have continuing legal effect until modified, superseded, set aside or revoked in accordance with or by operation of law. It also provides that proceedings, including notices of proposed rulemaking, and lawsuits commenced before the effective date of this title shall not be affected by the transfer.

Section 305. Separability. This section provides that if a provision of this title is held invalid, the remainder of the title shall remain unaffected.

Section 306. References. This section provides that any reference to the Commissioner of the Office of Navajo and Hopi Relocation and the Office of Relocation shall be deemed to refer to the Secretary of the Interior and the Office of Relocation of the Department of Interior respectively.

Section 307. Effective Date. This section provides that this title shall take effect on September 30, 2001.

Mr. Mr. FORD:

S. 2112. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, KY, and for other purposes; to the Committee on Energy and Natural Resources.

THE ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE BOUNDARY REVISION ACT OF 1996

Mr. FORD. 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. 2112

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

SECTION 1. REVISION OF BOUNDARY OF ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE.

(a) IN GENERAL.—On acquisition of the land known as Knob Creek Farm pursuant to subsection (b), the boundary of the Abraham Lincoln Birthplace National Historic Site, established by the Act of July 17, 1916 (39 Stat. 385, chapter 247; 16 U.S.C. 211 et seq.), is revised to include the land.

(b) ACQUISITION OF KNOB CREEK FARM.—The Secretary of the Interior may acquire, by donation only, the approximately 228 acres of land known as Knob Creek Farm in Larue County, Kentucky.

By Mr. KERRY:

S. 2113. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

THE WORKING FAMILIES' CHILD CARE ASSISTANCE ACT

• Mr. KERRY. Mr. President, today I am introducing the ''Working Families' Child Care Assistance Act'' to help the many working families who face great struggles to find affordable, good-quality child care.

Mr. President, we no longer live in an era when one parent generally stays at home full time to take care of the children. Today, 60 percent of women with children younger than six are in the labor force. The result is that approximately 7 million children of working parents are cared for each month by someone other than a parent. And most of these children spend 30 hours or more each week in child care, according to the National Research Council.

New research also confirms that our current social reality has placed enormous strains on working families' budgets because many families must pay for child care. According to a new study of 100 child care centers entitled ''Cost, Quality, and Child Outcomes in Child Care Centers,'' families spend an average of $4,940 per year to provide services for each enrolled child. Annual child care costs of this size represent a whopping 28 percent of $17,481, which is the yearly income of an average family in the bottom two-fifths of the income scale.

But even for families who can afford the cost of child care, in some communities child care continues to be hard to obtain at any cost. Mr. President, in 1994, 36 States reported State child care assistance waiting lists, according to the children's defense fund. Eight States had at least 10,000 children waiting for assistance. Georgia's list was the longest with 41,000, while in Texas the list had 36,000 names and a wait of about 2 years. In Massachusetts, the statewide waiting list contains the names of 4,000 working families. Additionally, a 1995 U.S. General Accounting Office [GAO] study found that shortages of child care for infants, sick children, children with special needs, and school-age children before and after school pose difficulties for many families.

I believe the child care situation may worsen because of a provision which I did not support in the recently passed welfare reform bill which cuts the title XX social services block grant by 15 percent. Many States currently use this funding to pay for child care for working families; unfortunately, this cut will result in even more families needing child care assistance.

Mr. President, it is time to provide help to working families to afford quality child care. My bill would double the funding through the child care development block grant, increasing child care funding by $1 billion per year. This would result in more than 5,000 families in Massachusetts alone receiving child care help.

Working parents face an extraordinary uphill battle in trying to make ends meet and cover the high cost of child care. Well over half the women in the work force are parents of preschool children, and they need access to affordable, quality child care they can trust. This bill provides real help to working families and hopefully will send a strong signal that their work and their efforts to provide reliable child care for their children is valued and supported.

By Mr. AKAKA:

S. 2114. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PET SAFETY AND PROTECTION ACT OF 1996

• Mr. AKAKA. Mr. President, today I am introducing the Pet Safety and Protection Act of 1996, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

Medical research is an invaluable weapon in the battle against disease. New drugs and surgical techniques offer promise in the fight against AIDS, cancer, Alzheimer's, heart disease, and a host of other life-threatening illnesses. Orthopedic surgeons are making tremendous progress in designing new and improved joint-replacement materials for patients. Emergency medical techniques, such as CPR, have saved thousands of lives since they were developed.

What do these advancements in medicine have in common? Animal research helped make them possible. Animal research ensures that drugs and surgical techniques, which benefit millions of

people every day, are safe and effective. Animal research is of great importance to our future, but there is growing evidence that, in some instances, research is being carried out using family pets that have been fraudulently obtained from the owners who love them.

The concern that has prompted me to introduce the Pet Safety and Protection Act of 1996 does not relate to whether animals should or should not be used in medical research. Rather, this bill provides a sensible solution to the growing problem of stray and stolen pets being sold to research facilities. It addresses problems caused by unethical Class B ''random source'' animal dealers. The Pet Safety and Protection Act of 1996 will safeguard family pets while allowing essential research to continue in an environment free from deception and abuse.

According to the USDA's Animal and Plant Health Inspection Service [APHIS], there are 4,325 licensed animal dealers in the United States. About 1,100 of these dealers are licensed by APHIS as Class B ''random source'' animal dealers. This means that these dealers do not breed the animals themselves, but obtain their dogs and cats from other sources.

Unfortunately, there is significant evidence to conclude that many Class B ''random source'' dealers are profiteering through theft or by deceptively acquiring animals. For example, in 1995, 50 class B dealers supplied 24,000 of the 89,000 dogs used for research. APHIS investigations of these dealers found that up to 50 percent engaged in fraudulent record-keeping practices. In other words, up to 11,000 of the dogs sold to medical facilities in 1995 may have been obtained through pet theft, falsified records, and other unscrupulous techniques.

The provisions of current law are impossible to enforce effectively. In response to evidence of repeated violations of Federal law by Class B ''random source'' dealers, I have introduced the Pet Safety and Protection Act of 1996. This legislation will ensure that dogs and cats used by research facilities are obtained from legitimate sources.

The problem of pet theft should not be left unchecked. Dr. Robert Whitney, former director of the Office of Animal Care and Use at the National Institutes of Health recently declared that, ''The continued existence of these virtually unregulatable Class B dealers erodes the public confidence in our commitment to appropriate procurement, care, and use of animals in the important research to better the health of both humans and animals.'' it is in the interests of consumers, pet owners, and researchers alike, to see that animals used for research purposes are obtained legitimately and treated with respect.

I urge all of my colleagues to join in supporting this legislation.●

By Mr. MOYNIHAN:

S. 2116. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporatoin, and for other purposes; to the Committee on Finance.

THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1996

Mr. MOYNIHAN. Mr. President, I am pleased to introduce legislation today that I hope, at the very least, will draw attention to the interesting possibilities of how private capital might be joined with public funding of our Nation's infrastructure. The bill is designed to facilitate investment in, and the financing of, infrastructure projects—which generate good-paying jobs—through the creation of a self-sustaining entity, the National Infrastructure Development Corporation.

In 1991, I sponsored the Intermodal Surface Transportation Efficiency Act [ISTEA]. One provision called for the establishment of an Infrastructure Investment Commission. Public investments in infrastructure have been declining, and so the Commission was charged with looking at ways to encourage the investment of private capital. The Commission was chaired by Daniel V. Flanagan, Jr. Under his able direction, the Commission released a report early in 1993. I found it truly compelling, and I look forward to revisiting the Commission's recommendations as we prepare for ISTEA II. In short, we would do well to listen to Mr. Flanagan, again, as we reauthorize our vitally important transportation infrastructure policies in the 105th Congress. There will be hearings, of course, and we look forward to testimony from the Commission as to its recommendations. I would like to point out that our colleague, Senator HUTCHISON from Texas, served as a member of the Commission; and I certainly look forward to working with her as the Environment and Public Works Committee takes up this most important matter next year.

I would like to note that significant infrastructure investment activity by U.S. pension funds is occurring daily overseas, particularly in Asia and Latin America. A good part of this has been prompted by the evolution of the independent power generation spawned by the action of our Congress in creating such entities as part of the Energy Policy Act of 1992. As a result, we now have a project finance industry in existence in this country assisting those American funds in such infrastructure investment overseas. Also, current policies of the Overseas Private Investment Corporation, the Export Import Bank, and the World Bank, encourage this type of overseas investment through credit enhancements, political risk insurance, and so forth.

The problem in the United States is that we have never provided such credit enhancement disciplines in our own infrastructure network. Clearly, there is significant political risk for the entrepreneur, the architect, the engineer, and even the community group that seeks to develop improvements and novel and innovative ways of paying for such services. The Commission's report suggests a ''growing of the pie'' approach to leverage some of our public funds by encouraging such private investment, and suggests that leverage ratios of approximately 10 to 18 times the public funds involved are attainable.

Recommendations of the Commission and Mr. Flanagan, who has testified several times before Congress on this subject, are incorporated in this legislation. For example, it suggests various insurance initiatives, particularly in the area of development risk, as well as other innovative procedures, including the reinsurance of long term revenue streams that would allow new economic activity to ensure either in the construction of new or rehabilitation of existing facilities.

I commend my colleagues in the House of Representatives, particularly the Democratic leadership there, for introducing this measure in that body earlier this year. To me this is a bipartisan effort and we welcome the support of our Republican colleagues. This legislation, the National Infrastructure Development Act of 1996, is by no means the final word on this subject. But I do recommend it to all of my colleagues for their examination and hope it proves sufficient to stimulate their interest in this ingenious approach to such an exciting matter.

SENATE RESOLUTION 296—RELATIVE TO DISABLED SENATE EMPLOYEES

Mr. FORD submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 296

Resolved, That (a) a Senate employee with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has the privilege of the Senate floor under rule XXII of the Standing Rules of the Senate may bring such supporting services (including dog guides and interpreters) on the Senate floor as the employing office determines are necessary to assist the disabled employee in discharging the official duties of his or her employment position.

(b) The employing office of a disabled employee shall administer the provisions of this resolution.

SENATE RESOLUTION 297—REFERRING S. 558

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 297

Resolved, That the bill S. 558 entitled ''A Bill for the relief of Retired Sergeant First Class James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes,'' is referred, with all accompanying papers, to the chief judge of the United

States Court of Federal Claims for a report in accordance with sections 1492 and 2509 of title 28, United States Code.

SENATE RESOLUTION 298—DESIGNATING ROOM S–131 IN THE CAPITOL AS THE MARK O. HATFIELD ROOM

Mr. BYRD (for himself, Mr. LOTT, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mrs. FRAHM, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 298

Whereas Senator Mark O. Hatfield, the son of Charles Hatfield (a railroad construction blacksmith) and Dovie Odom Hatfield (a school teacher), upon the completion of the 104th Congress, will have served in the United States Senate with great distinction for 30 years;

Whereas Senator Mark O. Hatfield is the longest serving United States Senator from Oregon;

Whereas Senator Mark O. Hatfield serves on the Committee on Energy and Natural Resources, the Committee on Rules and Administration, the Joint Committee on the Library, and the Joint Committee on Printing;

Whereas Senator Mark O. Hatfield serves as Chairman of the Committee on Appropriations and has provided for the development of major public works projects throughout the State of Oregon, the Pacific Northwest, and the rest of the Nation;

Whereas Senator Mark O. Hatfield has constantly worked for what he calls "the desperate human needs in our midst" by striving to improve health, education, and social service programs;

Whereas Senator Mark O. Hatfield has earned bipartisan respect from his Senate colleagues for his unique ability to work across party lines to build coalitions which secure the enactment of legislation; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Mark O. Hatfield as a reminder to present and future generations of his outstanding service as a United States Senator: Now, therefore, be it

Resolved, That room S. 131 in the United States Capitol Building is hereby designated as, and shall hereafter be known as, the "Mark O. Hatfield Room" in recognition of the selfless and dedicated service provided by Senator Mark O. Hatfield to the Senate, our Nation, and its people.

SENATE RESOLUTION 299—RELATING TO THE SENATE ARMS CONTROL OBSERVER GROUP

Mr. LOTT (for himself, and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 299

Resolved, That subsection (a) of the first section of Senate Resolution 149, agreed to October 5, 1993 (103d Congress, 1st Session), is amended by striking "until December 31, 1996" and inserting "until December 31, 1998".

SENATE RESOLUTION 300—TO DESIGNATE NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK

Mr. WELLSTONE (for himself, Mr. INOUYE, Mrs. MURRAY, Mr. DODD, Mrs. FRAHM, Mr. REID, Mr. GLENN, Mr. EXON, Mrs. BOXER and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 300

Whereas Shaken Baby Syndrome describes the consequences that occur when a young child is violently shaken;

Whereas Shaken Baby Syndrome is so lethal that 20 to 25 percent of its victims die, and most survivors suffer brain damage;

Whereas Shaken Baby Syndrome accounts for 10 to 12 percent of all child abuse and neglect cases in the United States;

Whereas 25 to 50 percent of teenagers and adults do not know that shaking a baby is dangerous;

Whereas education is the key to preventing this tragedy; and

Whereas the United States has a continuing commitment to the health and safety of this Nation's children:

Now, therefore, be it

Resolved, That the Senate designates the week of November 3, 1996, as "National Shaken Baby Syndrome Awareness Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

• Mr. WELLSTONE. Mr. President, I submit a resolution designating the week of November 3, 1996 as National Shaken Baby Syndrome Awareness Week. America's children are its most priceless and irreplaceable resource, and I am proud to lend them my voice in the U.S. Senate. Today, I speak for America's children as I urge my colleagues to consider this important resolution.

Shaking a baby causes serious brain injury. A baby's head accounts for one-fourth of its weight and is supported by weak and underdeveloped neck muscles. When a baby is shaken, it causes the brain to rock back and forth, hitting the skull with great force. This can cause the brain to bleed, bruise, or swell, resulting in the possibility of blindness, deafness, paralysis, epilepsy, cerebral palsy, and developmental disability. In many cases, this can also lead to death.

Brandon and Teddy are two very special little boys from my home State of Minnesota. They are survivors of a common and deadly form of child abuse that is often committed out of simple ignorance. Brandon and Teddy were violently shaken by their birth mothers out of frustration. This type of abuse and its resulting injuries are known as shaken baby syndrome or SBS.

Brandon and Teddy are survivors, but they will bear the scars of their abuse for the rest of their lives. Both boys have been adopted and are receiving expert care from a committed and loving family. Brandon is 6 years old and is stricken with a permanent brain injury. He has a seizure disorder, shunts in his head, and a permanent blind spot as a result of being shaken. Brandon receives special education services and learns very slowly. Teddy is 4 years old and does not speak. His brain injury impacts his problem-solving capability and his education is a long and tedious process. Teddy will probably never be able to live independent of a care-giver.

Brandon and Teddy's injuries were entirely preventable. A study by the Ohio Research Institute on Child Abuse Prevention indicates that 25 to 50 percent of adults do not know that shaking a baby is dangerous. Education of adult and teenage child care providers is the key to preventing the tragic consequences of SBS. According to studies by the U.S. Advisory Board on Child Abuse and Neglect, SBS is so lethal that over 20 percent of its victims die from the resulting injuries. These injuries may account for over 10 percent of all physical child abuse deaths in the United States.

On November 10, 1996, the first National Conference on Shaken Baby Syndrome will convene in Salt Lake City, UT. At this conference a coalition of families, doctors, law enforcement people, and child protection officials will gather to discuss the issues surrounding SBS. These committed individuals will work to educate medical professionals about the symptoms of SBS, push for more severe penalties for perpetrators, and teach all segments of the public that it's never OK to shake a baby.

Mr. President this resolution emphasizes the importance of this historic conference. It is my hope that the Senate will continue its commitment to the health and safety of America's children by supporting this resolution.

I ask unanimous consent that the list of supporting agencies be listed in the RECORD.

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

ORGANIZATIONS BY STATE SUPPORTING SHAKEN BABY SYNDROME RESOLUTION

AL—Alabama Children's Trust Fund
AK—Rural Community Action Program
AR—Arkansas Child Abuse Prevention
AZ—National Council for the Prevention of Child Abuse: AZ Chpt.
CA—Office of Child Abuse Prevention
CO—Pueblo City-County Health Dept.
CT—Wheeler Clinic, Plainville, CT
DE—Delawareans United to Prevent Child Abuse
FL—Florida Council for the Prevention of Child Abuse
GA—Georgia Council on Child Abuse, Inc.
HI—Prevent Child Abuse Hawaii
ID—Idaho Children Services Bureau
IN—Indiana Chapter NCPCA
IA—Iowa Chapter NCPCA
KS—Child Abuse Prevention Coalition
KY—Kentucky Council on Child Abuse, Inc.
LA—Louisina Council on Child Abuse
ME—Maine Dept. of Maternal and Child Health
MD—Mt. Washington Pediatric Hospital
MA—Massachusetts Committee for Children and Youth
MI—Michigan Children's Trust Fund
MN—Midwest Children's Resource Center
MS—Mississippi Children's Trust Fund
MO—MO Dept. of Health—Bureau of Prenatal and Child Health
MT—Cascade Cty. Child Abuse Prevention Council, Great Falls, MT
NE—Nebraska Department of Social Services
NV—Nevada Chapter NCPCA
NH—NH Bureau of Maternal and Child Health
NJ—New Jersey Chapter NCPCA
NM—NM Dept. of Children, Youth and Families
NY—William B. Hoyt Memorial Children and Families Trust Fund
NC—Prevent Child Abuse North Carolina
ND—Children's Hospital MeritCare
OH—Council on Child Abuse of Southern Ohio
OK—Children's Hospital of Oklahoma
OR—Children's Trust Fund
RI—Rhode Island Committee to Prevent Child Abuse
SC—SC Office of Public Health—Social Work
SD—SD Office of Child Protection Services
TN—Tennessee Dept. of Human Services
TX—Children's Trust Fund of Texas
UT—Child Abuse Prevention of Ogden
VT—Vermont Chapter NCPCA
VA—SCAN of Northern Virginia, Inc.
WA—WA Council for Prevention of Child Abuse and Neglect
WV—WV Children's Reportable Disease Coordinator
WI—WI Child Protection Center/Outpatient Health Center
WY—Wyoming Dept. of Family Services
DC—Children's Nat'l Medical Center—Div. of Child Protection.●

AMENDMENTS SUBMITTED

THE WALHALLA NATIONAL FISH HATCHERY CONVEYANCE ACT

HOLLINGS AMENDMENT NO. 5398

Mr. FRIST (for Mr. HOLLINGS) proposed an amendment to the bill (H.R. 3546) to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina; as follows:

Before section 1, insert the following:

TITLE I—WALHALLA NATIONAL FISH HATCHERY

At the end of the bill, add the following:

TITLE II—CORRECTION OF COASTAL BARRIER RESOURCES MAP

SEC. 201. CORRECTIONS OF MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to move the southern-most boundary of Unit SC–01 of the Coastal Barrier Resources System (known as the ''Long Pond Unit'') to exclude from the Unit the structures known as ''Lands End'', ''Beachwalk'', and ''Courtyard Villas'', including the land lying between the structures. The corrected southern boundary shall extend in a straight line, at the break in development, between the coast and the north boundary of the unit.

(b) MAPS.—The set of maps described in this subsection is the set of maps entitled ''Coastal Barrier Resources System'' dated October 24, 1990, insofar as the maps relate to Unit SC–01 of the Coastal Barrier Resources System.

THE WYOMING FISH AND WILDLIFE FACILITY ACT OF 1996

THOMAS (AND OTHERS) AMENDMENT NO. 5399

Mr. FRIST (for Mr. THOMAS, for himself, Mr. SIMPSON, Mr. DASCHLE, and Mr. PRESSLER) proposed an amendment to the bill (S. 1802) to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes; as follows:

Beginning on page 2, strike line 3 and all that follows through page 3, line 11, and insert the following:

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey, in ''as is'' condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as ''Ranch A'' in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraphs (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as ''Ranch A'' in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1):

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on land conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(a) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

THE TENSAS RIVER NATIONAL WILDLIFE REFUGE ACT OF 1996

JOHNSTON AMENDMENT NO. 5400

Mr. FRIST (for Mr. JOHNSTON) proposed an amendment to the bill (H.R. 2660) to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge; as follows:

At the end of the bill, add the following:

SEC. 3. BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE.

(a) REFUGE EXPANSION.—Section 502(b)(1) of the Emergency Wetlands Resources Act of 1986 (Public Law 99–645; 100 Stat. 3590), is amended by inserting after the first sentence the following: ''In addition, the Secretary may acquire, within such period as may be necessary, an area of approximately 4,228 acres, consisting of approximately 3,928 acres located north of Interstate 10 between Little Woods and Pointe-aux-Herbes and approximately 300 acres south of Interstate 10 between the Maxent Canal and Michoud Boulevard that contains the Big Oak Island archaeological site, as depicted on the map entitled ''Bayou Sauvage Urban National Wildlife Refuge Expansion'', dated August, 1996, on file with the United States Fish and Wildlife Service.''

THE ANIMAL DRUG AVAILABILITY ACT OF 1996

KASSEBAUM AMENDMENT NO. 5401

Mr. FRIST (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 773) to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''Animal Drug Availability Act of 1996''.

(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 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. EVIDENCE OF EFFECTIVENESS.

(A) ORIGINAL APPLICATIONS.—Paragraph (3) of section 512(d) (21 U.S.C. 360(d)) is amended to read as follows:

''(3) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as—

''(A) a study in a target species;

''(B) a study in laboratory animals;

''(C) any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant:

''(D) a bioequivalence study; or

''(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.''.

(b) CONFORMING AMENDMENTS.—

(1) Clauses (ii) and (iii) of section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)) are each amended—

(A) by striking ''reports of new clinical or field investigations (other than bioequivalence or residue studies) and,'' and inserting ''substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,''; and

(B) by striking ''essential to'' and inserting ''required for''.

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b (c)(2)(F)(v)) is amended—

(A) by striking ''subparagraph (B)(iv)'' each place it appears and inserting ''clause (iv)'';

(B) by striking ''reports of clinical or field investigations'' and inserting ''substantial evidence of the effectiveness of the drug involved, any studies of animal safety,''; and

(C) by striking ''essential to'' and inserting ''required for''.

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)), as amended by subsection (a) is amended by adding at the end the following:

''(4) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

''(A) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that—

''(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

''(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

''(B) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

''(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

''(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

''(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i)(I) and (II), paragraph (1)(A), (B), or (D) apply;

''(C) except in the case of a combination that contains a nontopical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

''(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness;

''(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

''(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

''(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

''(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the labeled effectiveness;

''(ii) each of the active ingredients or animal drugs intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population;

''(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

''(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.''.

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

''(3) Any person intending to file an application under paragraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach an agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requestor unless (A) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (B) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each such conference, the Secretary shall provide a written order setting forth a scientific justification specific to the animal drug and intended uses under consideration if the agreement referred to in the first sentence requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this paragraph shall be construed as compelling the Secretary to require a field investigation.''.

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term ''adequate and well controlled'', as used in subsection (d)(3) of section 512 of such Act, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions;

(B) further define the term ''substantial evidence'', as defined in subsection (d)(3) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P–0434/CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

Until the regulations required by subparagraph (A) are issued, nothing in the regulations published at 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary of Health and Human Services to require a field investigation under section 512(d)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)(E)) or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in subparagraph (A).

(f) MINOR SPECIES AND USES.—The Secretary of Health and Human Services shall consider legislative and regulatory options for facilitating the approval under section 512 of the Federal Food, Drug, and Cosmetic Act of animal drugs intended for minor species and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process under such section for animal drugs intended for use in minor species or for minor uses.

SEC. 3. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

''(F) Upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug.''.

SEC. 4. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

''(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under this section if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animals drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applications for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, 'relevant international organization' means the Codex Alimenterius Commission or other international organization deemed appropriate by the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new animal drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance or if scientific evidence shows the tolerance to be unsafe.''.

SEC. 5. VETERINARY FEED DIRECTIVES.

(a) SECTION 503.—Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after ''other than man'' the following: '', other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,''.

(b) SECTION 504.—The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following:

''VETERINARY FEED DIRECTIVE DRUGS

''SEC. 504. (a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to section 512(b) to use under the professional supervision of a licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from section 502(f).

''(2) A veterinary feed directive is lawful if it—

''(A) contains such information as the Secretary may by general regulation or by order require; and

''(B) is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to section 512(i).

''(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution. Such person distributing the feed shall maintain a written acknowledgement from the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgement to its immediate supplier.

''(B) Every person required under subparagraph (A) to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging in such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

''(b) A veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may by general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

''(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be prescription article under any Federal or State law.''.

(c) CONFORMING AMENDMENT.—Section 512 (21 U.S.C. 360b) is amended in subsection (i) by inserting after ''(including special labeling requirements'' the following: ''and any requirement that an animal feed bearing or containing the new animal drug be limited to use under the professional supervision of a licensed veterinarian''.

(d) SECTION 301(e).—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after ''by section 412'' the following: '', 504,''; and by inserting after ''under section 412,'' the following: ''504,''.

SEC. 6. FEED MILL LICENSES.

(a) SECTION 512(a).—Paragraphs (1) and (2) of section 512(a) (21 U.S.C. 360b(a)) are amended to read as follows:

''(a)(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless—

''(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and

''(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

''(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for the purposes of section 501(a)(6) unless—

''(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed,

''(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed, and

''(C) such animal feed and its labeling, distribution, holding, and use conform to the conditions and indications of use published pursuant to subsection (i).''.

(b) SECTION 512(m).—Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

''(m)(1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i), and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

''(2) Within 90 days after the filing of an application pursuant to paragraph (1), or

such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall (A) issue an order approving the application if the Secretary then finds that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

''(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

''(A) that the application is incomplete, false, or misleading in any particular;

''(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

''(C) that the facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i),

the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) relating to the use of such drugs in or on such animal feed.

''(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

''(i) that the application for such license contains any untrue statement of a material fact; or

''(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in the Secretary's absence the officer acting as the Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

''(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

''(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

''(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

''(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

''(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

''(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection and waives an opportunity for a hearing on the matter.

''(D) Any order under this paragraph shall state the findings upon which it is based.

''(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued—

''(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approval application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether this is or may be ground for invoking subsection (e) or paragraph (4); and

''(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(6) To the extent consistent with the public health, the Secretary may promulgate regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs.''.

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application on the date of the enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Wednesday, October 2, 1996, at 9 a.m. in SR–328A to discuss renewable fuels and the future security of U.S. energy supplies.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, September 25, 1996, in open session, to receive testimony on the impact of the Bosnian elections and the deployment of United States Military Forces to Bosnia and the Middle East.

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

COMMITTEE ON ARMED SERVICES

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, September 24, 1996, at 3:30 p.m. in executive session, to consider certain pending military nominations.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, September 24, 1996 session of the Senate for the purpose of conducing a hearing on S. 1860, the Auto Choice Reform Act.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 24, 1996, at 10 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BROWN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, September 24, at 10 a.m. for a hearing on the S. 1724, Freedom from Government Competition Act of 1996.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, September 24, 1996, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct a hearing on tribal sovereign immunity.

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

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, September 24, at 9 a.m. to hold a hearing to discuss Social Security reform.

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

NOTICE OF INTENTION TO SUSPEND THE STANDING RULES OF THE SENATE

Mr. LOTT. Mr. President, pursuant to rule 5, paragraph 1 of the Standing Rules of the Senate, I hereby give written notice to suspend rule 28 of the Standing Rules of the Senate, titles 3 and 6 of the Budget Act and all provisions of the budget resolutions for consideration of the conference report to accompany H.R. 3610, the DOD appropriations bill.

ADDITIONAL STATEMENTS

UNITED STATES' RELATIONSHIP WITH NORTH KOREA

• Mr. SIMON. Mr. President, one of the Members of Congress who has contributed significantly more than most of us is Congressman TONY HALL.

His emphasis on helping people in need has sharpened the conscience of many policymakers, though it has not sharpened it enough.

He has provided leadership in areas that most Members of Congress ignore, such as Eritrea.

Recently he went to North Korea, and he testified before the Subcommittee on East Asian and Pacific Affairs of the Senate Foreign Relations Committee.

It is a remarkable insight into the leadership that is needed in regard to the tense situation in Korea.

Nowhere do we have as many troops facing each other as we do between North Korea and South Korea and that problem is compounded by the fact that there is no communication between the two countries.

Mr President, I ask that Congressman HALL's remarks be printed in the RECORD.

The remarks follow:

TESTIMONY OF U.S. REPRESENTATIVE TONY P. HALL

Good morning. I want to thank you for inviting me to testify today, Mr. Chairman, and to thank both you and Senator Robb for the focus you are bringing to the United States' relationship with North Korea.

I am convinced that our increasing contacts with North Korea can only benefit America's interests—and make the job of the 37,000 American troops stationed along the border with South Korea easier. And I am hopeful that our contacts also will help the people of North Korea who have suffered in their decades-long isolation, and are hurting badly today.

Our humanitarian work, our progress in dismantling North Korea's nuclear reactor and on missile technology controls, and the unprecedented joint investigation by U.S. and North Korean soldiers into the fate of missing servicemen—all of these mark a dramatic turn-around in a relationship that is in its fifth decade of military tension.

I believe our nation owes special thanks for these changes to former President Jimmy Carter, whose personal diplomacy laid the groundwork for peace two years ago. Senator Paul Simon, who with Senator Frank Murkowski travelled to North Korea at a crucial moment, and who has championed ideas that hold great promise for the future of both countries, also deserves recognition for his work. We ought to build on their success in seizing this historic opportunity.

NORTH KOREA'S FOOD SHORTAGE

The hunger and malnutrition that I saw in North Korea is different than famines I've seen in my visits to other countries. This is the only country I can remember where grown children are shorter than their parents. The stunting is severe, especially when you compare North Koreans to their siblings and cousins in South Korea. And North Korea is the only place I've seen where parents and grandparents are giving their rations to their children in a desperate effort to protect them.

Today in North Korea, people are somehow surviving on rations of little more than 600 calories a day—just seven ounces of grain. That's not two bowls of rice, too much to die on, but not enough to live on and function. They are scrambling to supplement that starvation diet, but clearly having little success.

Nutritional standards say sedentary workers need about 2,000 calories a day to maintain their body weight—but people in North Korea cannot be sedentary. In two weeks, the harvest will be brought in with the aid of few animals and fewer machines. And if there is to be any hope for next year's harvest, the back-breaking work of rebuilding broken irrigation systems, roads, and other infrastructure must be completed.

Adults have lost an average of 30 pounds since January, according to Western aid workers I talked to there. According to our Ambassador to South Korea, James Laney, a North Korean soldier who defected to South Korea in mid-August weighed just 92 pounds. And there are many more measures of the extent of the suffering in North Korea in both the intelligence and in the unclassified reports of U.N. agencies, the International Red Cross, and charities that have visited North Korea.

For me, two things stand out in all of these measurements:

First, the bodies of most of the North Koreans that I saw are exhausted. Simply surviving this winter will be a tremendous physical challenge that many of them will not be able to meet.

Second, North Korea's land appears equally worn out. Food grows on any patch of land available—atop the rice paddy walls, along the shoulders of roads, in rivers' floodplains, on the slopes of steep hills. Land is not permitted to lie fallow, there is no investment in fertilizer and pesticides, deforestation leads to soil erosion that ruins once-productive land—and sorry yields are the result of it all.

North Korea's granaries were last full in 1992—but however self-inflicted the long-term problems may be, the country was overwhelmed by the worst natural disaster in its history last year. And this year, another severe flood struck the breadbasket provinces that produce 60 percent of North Korea's grain.

WHAT IS MISSING

What struck me most was not what I saw—but what was missing. There is an eerie silence in the capital, and in the villages that we visited in more than 20 hours on the road. You don't hear roosters crowing, and the air seems empty of birds—even of gulls in the seaside city of Haeju. You don't see cats, or rats, or cows or goats—or much sign of other animal life. Occasionally, in people's homes I saw dogs, but not a single puppy. According to some aid workers, the sight of a pregnant woman is increasingly rare, and a new maternity hospital never has more than 25 of its 250 beds filled. Certainly we saw no fat people—or anybody that bore much resemblance to their healthier siblings and cousins in South Korea.

Soldiers—and we saw a lot of individual soldiers throughout the capital and countryside—have the same hollow-cheeked look as civilians, and their uniforms hang very loosely on them. That may be the best evidence that most of North Korea's military isn't getting much more to eat than the rest of the people.

All of this added up to a nagging sense that we simply cannot know what is happening in North Korea. Aid workers speak in hushed tones when talk turns to what is happening in the mountains that make up 80 percent of North Korea. They can barely help the 1.5 million children and flood victims covered by the U.N.'s appeal for humanitarian aid; the remaining 20 million people are on their own.

Two American demographers, Nicholas Eberstadt of the American Enterprise Institute and Judith Banister, of the U.S. Census Bureau, have done statistical analysis of North Korea's population—and with your permission, Mr. Chairman, I would like to submit a letter for the record that Mr. Eberstadt is preparing. The gist of their finding is that half a million people are ''missing.'' That is either (1) a statistical blip; or (2) a sign of severe changes in the birth and death rates. We cannot know which is true, but I believe the possibility of something that would affect 500,000 people deserves our concern.

NORTH KOREA'S OWN EFFORTS

I also want to comment briefly on the efforts that North Korea is making to ease suffering in its country. Its rations system now feeds the majority of the population, and by all accounts, it is meticulously fair. Ration cards measure out to three decimal points. A U.N. report issued Sept. 9 notes that sometimes there is not enough food to distribute the second of two monthly rations, but people do seem to share equally in the food available.

The system also appears to be exceptionally efficient. The first U.S. flag ship to visit

North Korea since the war arrived on Wednesday, Aug. 21—and the rice and cornmeal it carried already was being distributed when I visited two rural provinces on Thursday, Aug. 22.

Other North Korean efforts are more troubling, however. According to Monday's report, some 30 to 90 percent of the nation's livestock have been turned over to individuals for tending or slaughtering; and local provinces have gotten a green-light to barter their timber and other resources for food (primarily with China)—increasing deforestation and reducing the fuel available this winter.

THE JULY 1996 FLOOD

So far, North Korea's suffering is largely caused by the 1995 disaster—a massive, 100-year flood that bore striking similarities to our own Midwest flood of just three years ago. People already bombarded with admonitions to ''work harder, eat less'' have high hopes that the 1996 harvest will be good.

It won't be.

United Nations experts who travelled to the region I saw just after I left reported this week that much of the country's breadbasket region—which produces 60 percent of its grain, and which I visited last month—was under water for five days in July. Rainfall was 3–5 times normal, overwhelming irrigation canals and bursting dams. To put the torrential rains into some perspective, it was twice what North Carolina and Virginia endured in Hurricane Fran's aftermath—and it lasted five times longer. And the rains came at a crucial time in crop development—stunting the growth of corn, and robbing rice stalks of their nutritional kernels.

Along just one 500-mile irrigation network, there were 369 breaks. A report issued by the International Red Cross, UNICEF, and several U.N. agencies puts the likely crop losses in the half-million acres irrigated by this system at $300 million. And broken sea dykes added to this misery, washing salt water over land and poisoning it for this year and probably several more.

INTERNATIONAL AID

The international community is lending a hand—but only barely. China, Japan and the U.S. each have donated some $6 million to the current appeal. South Korea has given $3 million, and promises far more if North Korea agrees to peace talks that President Clinton and President Kim proposed in April.

With the notable exception of Sweden, though, the response of most European nations has been nothing less than a ''let 'em starve'' pittance that shames the reputation of European people. I spoke with the director of U.S. AID, Brian Atwood, about this—and he plans to raise the matter with his European Community counterpart in October.

In all, just over half of the United Nations' current emergency appeal has been filled. It last until March 1997, but the food-for-work projects to rebuild irrigation systems and other infrastructure must begin immediately after the harvest in order to stave off another disaster in 1997.

NGOs are doing their best to respond, but they are hampered by restrictions on South Korean individuals—many who have family ties to the North—and by North Korea's petulant insistence that NGOs bring food, and not just people. Without eyewitness accounts, without reporting by independent journalists, NGOs simply cannot raise the money they need to fund their operations. U.S. organizations like World Vision and Mercy Corps are doing their best to help, and the U.S. government should lend its weight to their efforts.

In every disaster, NGOs are the first to respond—the people who work with the most vulnerable groups, and who stick around long enough to do the long-term work needed. Governments—including the U.S. Government—need to do more. But it will be the work of private citizens, and the organizations they support, that will make or break North Korea's recovery. This is my strong conviction, and I raised it with both North and South Korean leaders.

CONCLUSION

Despite the seemingly endless stream of bad news about North Korea, I remain hopeful. My talks with North Korea's leaders were productive, and I am convinced that good-faith efforts by the U.S. and other nations will produce more good-faith efforts by North Korea. It is not a quick process, but it is one whose pace is increasing, and it is our best hope for lending momentum to the progressive factions inside North Korea.

I am hopeful for one other reason: a UNICEF project that represents an historic joint effort by North and South Korea. Like all UNICEF projects, the Oral Rehydration Salts plant will be a Godsend to children. The packets of gluocse and salt that this plant will manufacture are used around the world as a circuit-breaker in the spiral of disease and death. If you care about suffering children, and had just three wishes, Oral Rehydration Salts would be one of those wishes.

North Korea was self-sufficient in producing this life-saving product—until the flood swept away its building and equipment in 1995. It has since donated a building for the plant to UNICEF and brought it up to World Health Organization standards—but UNICEF still lacked the money needed to equip the plant.

Until this week.

When I met South Korea's Foreign Minister, Gong Ro Myung en route home, I raised this urgent need with him. At the time, my hopes that South Korea would help were pretty low. But despite the loss of seats in Parliament that ensued after South Korea's donation of humanitarian aid ended in insults by North Korea; and despite public outrage recently reinvigorated by violent clashes between students and police, Minister Gong carried my request to President Kim Young Sam. And despite President Kim's difficult position as the country's first democratically elected leader—he pledged the money needed to finish this project.

His is an example that should inspire political leaders here, and in other capitals. I hope it will mark a determination by charities and private individuals to overcome the challenges of helping people in North Koreaa as well.

MISSING SERVICEMEN

Finally, I cannot close without expressing my serious concern about the persistent trickle of rumors that missing American servicemen have been sighted in North Korea. I personally raised questions about a pilot shot down during the Korean War, and conveyed the resolve of Americans to help the families of missing servicemen learn the answers to their question.

I know that this Committee's Chairman, along with Senators John Kerry, Nancy Kassebaum, Hank Brown, and Chuck Robb have devoted considerable attention to these questions, as has Senator John McCain. Several of my House colleagues also have worked hard on these issues—especially Congressmen Bill Richardson, Pete Peterson and Lane Evans. I am convinced that this persistent attention, and the ability of Americans in military service today to work on the ground in North Korea, offer the best hope possible.

Four decades of isolation have not produced answers about servicemen missing since the Korean War. I believe it is time to try a new strategy; and I hope that North Korea's new openness is the silver lining in the black cloud of the terrible suffering the North Korean people are enduring.

Again, thank you for holding this hearing, and for inviting me to testify.●

TRIBUTE TO AL SMITH

● Mr. McCONNELL. Mr. President, I rise today to recognize an icon of Kentucky journalism. For over 20 years, Al Smith has been part of what he calls ''front-porch, cracker-barrel kind of discussion'' on Kentucky radio. But part of that career, and part of a Kentucky tradition, has ended with his announcement of retirement.

Albert P. Smith, Jr., was born in Sarasota, FL, but has lived in Kentucky since 1958. When Al was 15, he entered the American Legion's high school oratorical contest. Living with his parents and grandparents in Hendersonville, TN, he received coaching for the contest from his grandmother and won the top national prize, a $4,000 college scholarship. He then traveled to New England, the Midwest and the South giving the speech in cities throughout the region. It was on this trip that Al sharpened his speaking skills.

In the mid 1960's, Al bought a 10 percent interest in the Russellville News-Democrat and Leader. That interest eventually grew to his ownership of six weekly newspapers. In 1974, while Al was editor of the News-Democrat, he became a household name as host of the radio program, ''Comment on Kentucky.'' Once a week, he would drive 180 miles to host the show. The man who hired Al to do that job, O. Leonard Press, told the Lexington Herald-Leader, ''I can't imagine the Kentucky landscape without Al.''

Al is still host and producer of ''Comment on Kentucky,'' Kentucky Educational Television's longest-running show. But last month, Al retired from his job as host of ''PrimeLine with Al Smith'' which is broadcast statewide via radio. He never planned to retire from the show; but recent health problems have necessitated a change in his busy lifestyle. His regular listeners will miss him greatly.

But perhaps Al's biggest fan is his wife of 29 years, Martha Helen. In an interview with the Lexington Herald-Leader, Martha Helen said of Al, ''I still believe Al is the most interesting person I ever met.''

Mr. President, I would like to pay tribute to Al Smith for his dedication to Kentucky journalism and I wish him great happiness in his retirement.●

RECENT EVENTS IN INDONESIA

● Mr. LEAHY. Mr. President, like many Senators I have been concerned about human rights in Indonesia and East Timor for many years. I was therefore pleased when the Clinton administration indicated on July 25 that it had added armored personnel carriers to the list of military equipment

it will not sell to Indonesia until there is significant improvement in respect for human rights. The administration's policy already prohibited the sale of small arms and crowd control equipment.

Two days after the United States reaffirmed and expanded its policy, an Indonesian paramilitary group stormed and destroyed the headquarters of the Indonesian Democratic Party to eject supporters of the leading opposition leader, Megawati Sukarnoputri. Party members had occupied the building to protest the forced replacement of Ms. Megawati as party chair in June. The breakup of the protest sparked days of rioting in which at least 5 people were killed, 149 were injured, and dozens disappeared.

In the months after the riot, the Suharto government has cracked down on opposition groups, arresting more than 200 members of labor, human rights, and political organizations. Some individuals have reportedly been tortured in detention.

Under pressure from Congress, the administration agreed to delay the sale of F–16 fighter jets to Indonesia in response to the crackdown. In a letter I wrote urging the administration not to proceed with this sale, I noted that providing military equipment to a government that engages in a pattern of human rights violations is contrary to section 502(B) of the Foreign Assistance Act of 1961, and that the Indonesian Government clearly fits this description. I urged the administration not to proceed with the sale until the Indonesian Government ''provides a full accounting of the individuals who have been detained and the charges against them, assurances that they are not being subjected to mistreatment and that they have access to lawyers and their families, and that people detained for their political views have been released.''

I was therefore disturbed to learn weeks later that administration officials, having delayed the sale of F–16's on account of the human rights situation, were saying publicly that the sale would proceed ''as early as January.'' This undercut an opportunity to send a strong signal to a regime that has quashed political dissent consistently and whose actions since July reveal a disregard for the principals of democracy that the United States seeks to promote around the world. The administration should make clear, both privately and publicly, that this sale will not proceed until the Indonesian Government complies with international human rights standards.

Indeed, I urge the administration to condemn all human rights violations in Indonesia. Abuses continue to occur throughout the country and in East Timor. On November 12, East Timorese will honor the victims of the 1991 massacre of more than 200 people by Indonesian troops at Santa Cruz cemetery in Dili, East Timor. A long-standing pattern of violations by the Indonesian military persists on that island, and the anniversary of the massacre at Santa Cruz presents an opportunity for the United States to urge the Indonesian Government to withdraw its troops from East Timor.

To that end, I urge the administration to actively support the efforts of Bishop Carlos Ximenes Belo to promote dialog and bring peace to East Timor, and to support the United Nations talks on East Timor's future.

Mr. President, the senior Senator from Rhode Island, Senator PELL, who has been a long-standing champion of human rights in East Timor, visited that island in May and issued a report of his trip. In that report, he describes a meeting with clergy in East Timor, who told him about some of the abuses they had witnessed. I ask that these excerpts from his report be printed in the RECORD.

The excerpts follow:

EXCERPTS OF TRIP REPORT OF SENATOR CLAIBORNE PELL ON HIS VISIT TO INDONESIA AND EAST TIMOR IN MAY–JUNE 1996

I had hoped to meet with the Bishop of East Timor, Msgr. Carlos Filipe Ximenes Belo. Bishop Belo is widely admired for his forthright objections to Indonesian human rights abuses and is a vital leader of his people. Regrettably, he was away from East Timor during my visit, though we were able to talk by phone.

I was able to meet with eleven priests from a variety of East Timorese parishes in what was by far the most fruitful and dramatic meeting of my trip . . . these priests gradually and fearlessly opened up to me and told me what they had seen and heard in their parishes over the last 20 years.

They spoke of military harassment of the Church that varies from obstructing their ability to meet with their parishioners to trying to create mistrust among the people of the Church . . .

None of the priests had been present at the 1991 massacre but one told us, with great emotion, of his experiences, that day and in the months afterwards. His home is near the Santa Cruz cemetery where the massacre occurred. He had heard the shots that morning, but thought at first they were the rumblings of a storm. When he went out later, he heard from people what had happened and he went to the cemetery and tried to give last rites to those who were dying or were dead. The military would not let him approach and tried to make him leave. He stayed anyway and soon saw three large military trucks approach and be loaded with corpses. Then he saw other trucks come that were filled with water and he watched them spray the blood off the ground where the killings had taken place.

The wounded were all taken to military hospitals, he said. He then proceeded, without prompting, to confirm the stories I had read and been told earlier, that no one was allowed to visit these wounded in the hospitals, not even the priests. Again he was unable to give last rites to the dying. He estimated that in the month following the massacre as many people died in the hospitals, either from poor treatment or from torture, as had been killed in the cemetery. He told of hearing eyewitness accounts of mass graves holding as many as 100 corpses in one pit. He said the month following the massacre came to be known as ''The Second Massacre.'' . . . Emotions around the room continued to rise, both for those telling the stories and those of us listening to them. I was struck by the knowledge that 5 years previously this group would have risked the sudden intrusion of armed officials, as the priests systematically contradicted everything the Indonesian government officials in Jakarta and Dili had said . . .

Mr. President, we owe Senator PELL our gratitude for his defense of human rights in East Timor. I want to again urge the administration to use its influence with the Suharto government to permit the supporters of democracy to associate and speak freely, and to stop the violations of human rights.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through September 20, 1996. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1997 concurrent resolution on the budget, House Concurrent Resolution 178, show that current level spending is below the budget resolution by $425.7 billion in budget authority and by $248.9 billion in outlays. Current level is $17.8 billion above the revenue floor in 1997 and $99.4 billion above the revenue floor over the 5 years 1997–2001. The current estimate of the deficit for purposes of calculating the maximum deficit amount is −$39.2 billion, $266.5 billion below the maximum deficit amount for 1997 of $227.3 billion.

Since my last report, dated September 4, 1996, Congress has cleared and the President has signed the following appropriation bills: Military construction (Public Law 104–196), District of Columbia (Public Law 104–194), and legislative branch (Public Law 104–197). In addition, the Congress has cleared and the President has signed the National Defense Authorization Act for fiscal year 1997 (Public Law 104–201). The Congress has cleared for the President's signature the following appropriation bills: Energy and water (H.R. 3816) and transportation (H.R. 3675). These action changed the current level of budget authority and outlays.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 24, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1997 shows the effects of Congressional action on the 1997 budget and is current through September 20, 1996. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1997 Concurrent

Resolution on the Budget (H.Con.Res. 178). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated September 3, 1996, the Congress has cleared and the President has signed the following appropriation bills: Military Construction (P.L. 104–196), District of Columbia (P.L. 104–194), and Legislative Branch (P.L. 104–197). In addition, the Congress has cleared for the President's signature the National Defense Authorization Act for FY 1997 (H.R. 3230) and the following appropriation bills: Energy and Water (H.R. 3816) and Transportation (H.R. 3675). These actions changed the current level of budget authority and outlays.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1997, 104TH CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS SEPT. 20, 1996

[In billions of dollars]

	Budget resolution H. Con. Res. 178	Current level	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,314.9	889.3	−425.7
Outlays	1,311.3	1,062.4	−248.9
Revenues:			
1997	1,083.7	1,101.6	17.8
1997–2001	5,913.3	6,012.7	99.4
Deficit	227.3	−39.2	−266.5
Debt Subject to Limit	5,432.7	5,041.5	−391.2
OFF-BUDGET			
Social Security Outlays:			
1997	310.4	310.4	0.0
1997–2001	2,061.3	2,061.3	0.0
Social Security Revenues:			
1997	385.0	384.7	−0.3
1997–2001	2,121.0	2,120.6	−0.4

Note: Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION; SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS SEPT. 20, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,100,355
Permanents and other spending legislation	843,212	804,226	
Appropriation legislation		238,523	
Offsetting receipts	−199,772	−199,772	
Total previously enacted	643,440	842,997	1,100,355
ENACTED THIS SESSION			
Appropriations bills:			
Agriculture (P.L. 104–180)	52,345	44,922	
District of Columbia (P.L. 104–194)	719	719	
Legislative Branch (P.L. 104–197)	2,166	1,917	
Military Construction (P.L. 104–196)	9,982	3,140	
Authorization bills:			
Taxpayer Bill of Rights 2 (P.L. 104–168)			−15
Federal Oil & Gas Royalty Simplification and Fairness Act of 1996 (P.L. 104–185)	−2	−2	
Small Business Job Protection Act of 1996 (P.L. 104–188)	−76	−76	579
An Act To Authorize Voluntary Separation Incentives at A.I.D. (P.L. 104–191)	−1	−1	
Health Insurance Portability and Accountability Act of 1996 (P.L. 104–191)	305	315	590
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193)	−2,341	−2,934	60
Total enacted this session	63,097	48,000	1,214

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION; SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS SEPT. 20, 1996—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
PASSED PENDING SIGNATURE			
National Defense Authorization Act for FY 1997 (H.R. 3230)	−103	−103	
Transportation Appropriations (H.R. 3675)	12,599	12,270	
Energy and Water Development Appropriations (H.R. 3816)	19,973	13,090	
Total passed pending signature	32,469	25,257	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	150,245	146,161	
Total current level [1]	889,251	1,062,395	1,101,569
Total budget resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under budget resolution	425,684	248,926	
Over budget resolution			17,841

[1] In accordance with the Budget Enforcement Act, the total does not include $68 million in outlays for funding of emergencies that have been designated as such by the President and Congress.•

NORTH AND SOUTH KOREA

• Mr. SIMON. Mr. President, I hope that in the process of being absorbed in the crises around the world, we do not forget the North Korean situation.

It is the one place on the face of the Earth where more troops are facing each other than any other, and it is a place where there is virtually no communication between the two Governments, North Korea and South Korea.

Let me add that I appreciate the responsible role that my colleague, Senator FRANK MURKOWSKI, took on the recent amendment offered by Senator LIEBERMAN.

It is easy to do things that are popular, and FRANK MURKOWSKI won no votes in Alaska with his stand. But he did the responsible and right thing for the people of Alaska and this Nation and of the world, and I applaud him for it. It is no accident that he has been to North Korea and has greater understanding of that situation than many Members of the Senate.

Not too long ago, Ambassador James Laney, the U.S. Ambassador to South Korea, made a speech in which he said that the leaders of North Korea ''are driven not by arrogance, but by insecurity.'' I tend to believe that is accurate. And we have to fashion a face-saving way of maneuvering them to become more responsible members of the world community.

Ambassador Laney also said in commenting on the situation: ''For our part we do not need to act strong because we are strong.''

I believe in the soundness in what he has said.

I urge members of the State Department and of the administration not to put the North Korea matter on the back burner, but to continue to focus on it, and try to bring about greater communication. If the four-power talks that have been suggested do not become reality, then at the very least, we ought to be inviting parliamentarians from both North Korea and South Korea to meet informally in the United States with each other and with others in our country.•

THE TERUYAS

• Mr. INOUYE. Mr. President, I wish to share with my colleagues in the Senate, a very special story about an immigrant family. This article was written by Mr. Don Chapman, and appeared in the Wednesday, September 4, 1996, issue of the Midweek.

This story is of three young men, whose parents traveled 4,800 miles to begin a new life in the Hawaiian Islands. The name of the sons were, Albert, Herman and Wallace. The Teruya brothers were extraordinary young men. Like most immigrants, they worked long hours with low wages, but they had great faith in our country. With their meager earnings, they first opened a small restaurant, Times Grill at 635 Kapiolani Boulevard, offering 24-hour service. I have had the privilege of knowing these brothers for over 50 years.

After the attack on Pearl Harbor, Herman and Wallace volunteered to serve in the U.S. Army. They served with the most decorated infantry regiment of World War II—the 442d Regimental Combat Team. Sgt. Herman Teruya, while charging up an Italian hill occupied by crack German soldiers made the supreme sacrifice. His valor is legendary in our regiment. After the war, Wallace returned to Honolulu to resume his activities that began before the war.

Together, the remaining brothers decided to take the big step and established a supermarket; it was called Times Supermarket. Today, 47 years later, Times Supermarket is the largest supermarket chain in the State of Hawaii. It is a household name.

We must keep in mind that we are all descendants of immigrants. This is the success story of the Teruya family, where the values of hard work and sacrifice have enabled them to live the American dream.

Mr. President, I ask that this special story of the Teruya brothers be printed in the RECORD.

The article follows:

THE TERUYAS

(By Don Chapman)

This is why people have always come to America, and why a teeming mass still strains to reach our shores. This is the American Dream, equal parts sweat and sacrifice, and if you're lucky a place in the sun and chickenskin on the Fourth of July.

It's about immigrant kids starting out dirt-poor on a plantation, taking a chance in the big city, working long and hard, living frugally and saving, serving their country in war even as their peers are rounded up into concentration camps, losing a brother in that war and then making his dream come alive.

It is timeless Americana. And it is the true story of the Teruyas of Times Supermarkets, which today operates 13 stores on Oahu and employs nearly 1,000 people.

''It's hard to imagine taking that risk, leaving your home to go to a foreign country to look for opportunities,'' says Wayne Teruya, who 2 years ago took over the company that his father and uncle founded in 1949. ''But that's what my grandparents did. They came from Okinawa to work on the plantations.''

The Teruyas have been trying bold, new things ever since. The first Times, for instance, was the first retail store in Hawaii to offer air-conditioning (1949). The Liliha store was the first to be integrated into a condominium complex (1975). The Waialae store was the first to use a bar-code scanner at the checkout counter (1979). Today, Times is the leader in supermarket pharmacies.

The Times story really begins with Albert Teruya, Wayne's uncle. Seeing no opportunity to improve his bleak life on the Wailea plantation, he left Maui in 1929 at the age of 15 and caught a steamer to Honolulu. Two years later, his brother Wallace joined him.

''They started out working in restaurants,'' Wayne says.

The Great Depression was on, and one benefit of restaurant work was that it provided room and board plus wages. The brothers worked 14 hours a day, but the enthusiasm of youth fueled by a dream of something better kept them going. In 1936, they pooled their savings and bought the lunch counter at a downtown drug store for $600 and named it the T&W Lunchroom.

Three years later, in partnership with their cousin, Kame Uehara, with whom Albert had first lived in Honolulu, they opened Times Grill at 635 Kapiolani Boulevard, offering 24-hour service.

Albert says the name Times, which they took with them to the grocery business, expresses the company's progressive attitude: ''Keeping up with the times.''

Two other reasons they chose that name 57 years ago: Times was easily pronounced by non-English speaking immigrants and it fit easily on a small sign.

Two years later, Pearl Harbor was attacked. Wallace and another brother, Herman, put their dreams on hold and enlisted in the 442nd. In Italy, Sgt. Herman Teruya gave the ultimate sacrifice. While charging an enemy position, the young infantryman was killed.

Wallace returned from the war with Herman's dream still alive.

''My uncle Herman had been interested in opening up a grocery store,'' says Wayne Teruya, son of Wallace. ''My father and uncle decided to pursue that route. They thought there was more opportunity in the grocery business. The restaurant business is long hours, even after-hours, and there's bars and drinking involved. So they decided to try the supermarket business. They got involved in different aspects of the business, working for suppliers, working for another supermarket, learning all the aspects of the grocery business so when they opened their own business, they had a broad perspective of all the different departments.''

Selling groceries is far different today than it was when Albert and Wallace first opened the doors in 1949.

''In those days you didn't have too many choices, but in today's marketplace you have too many choices,'' Teruya says with a laugh, then turns serious. ''It's not only the other supermarkets, but Longs, Walmart, K-Mart, as well as the Costcos and convenience stores. We know you have your choice of going anyplace. We know you don't have to come to Times Supermarket to do your shopping. It's not just that you have to eat so you come to our store. We have to deserve your business.

''We're still struggling with the Costcos and Sam's Clubs. The impact of them is that many of our customers go [to discount markets] for their big bulk buys. If they're having a big party, they may decide to go there. So our effort is still to give good customer service and give them good reasons to come into our store.''

One innovation that sets Times apart is its pharmacies. ''We have the opportunity in the supermarket industry in the state of Hawaii to be the front-runners,'' Teruya says. ''All but two of our 13 stores have pharmacies. Safeway only has three. Star has two.

''Pharmacy is one of the departments that makes us different among the supermarkets, and one where we're not really challenged. Longs, a regular drug store, is our major competition. With Payless out of the market now, as far as chain pharmacies in Hawaii, it's Longs and Times Supermarkets.''

Teruya adds that with the Baby Boomer generation turning 50—as he will next year—and becoming senior citizens, a period in human lives that often requires more medical attention and more medicines, Times' pharmacies are in a position to both take advantage of that demographic situation and to help customers: ''If they have diabetes, for example, you can suggest to them food products that will help them in their diet to control the diabetes. We're working on programs where we can give advice on diet needs which crosses over to our foods. Drug cost is a small component of a person's overall health care cost, so if we can do a better job in the pharmacy, the overall medical cost can come down.''

Teruya says Times is working on the other innovations in the tradition of Albert and Wallace, but doesn't want to tip his hand just yet.

As he looks forward, Teruya glances in the rearview mirror of life. He considers the risks taken by his immigrant grandparents and the hard work of his industrious father and uncle: ''Yes, it does make you feel good to come from people like that. And I feel a responsibility to continue it.''

Sometimes when you look in that rearview mirror, some objects appear larger than life. It must be that way for the Teruyas.

In 1947, Wallace, Albert and Kame sold Times Grill—to a former employer at the Kewalo Inn who had just returned from a California internment camp—and began methodically learning the grocery business. Wallace worked in Amfac's grocery warehouse and at Tom, Dick and Harry's market on Kapahulu. Albert worked at Sears, where he learned how a big company operates and about customer service.

On April 29, 1949, with the help of friends and family who helped stock shelves, they opened the first Times Supermarket, the McCully store at 1772 South King Street.

That first store was small by today's standards, but it was modern, well-stocked and air-conditioned. And, says Teruya, it featured Albert and Wallace's basic philosophies that continue to guide the company: ''High-quality merchandise, competitive prices, excellent service. And the customer is always right.''

''My father was more customer relations, my uncle was more administration, looking at the overall operation,'' says Wayne Teruya. ''They were a good balance.''

They still are, even in their 80's.

''They've never really retired,'' Teruya says. They still come into the office every day, still visit the stores. You'll never get the business out of their blood.''

Their tradition of innovation remains a part of the company.

''We always try to do that, we're always looking for new ways of doing things,'' says Teruya. ''But we're not afraid to copy a good idea, either. If we see something that our competitors are doing and it's working, then yeah, we'll follow.''

He recalls that when his father took his wife, Ethel, and their four children on vacation to the Mainland, part of the itinerary was always checking out supermarkets.

''My father would drive and no matter where we were going, if we passed a market, he'd pull into the parking lot. Sometimes we all went in, sometimes we stayed in the car, and he'd go in to see if he could get any new ideas. He's still curious to see what things are working.''

Wayne, 49, was 2 when the first Times opened. He has no recollection of that big day in family history, but has plenty of other memories of growing up around groceries:

''I remember running around in our McCully store as a little kid, going upstairs, visiting the offices. The store was closed on Sundays, but a lot of times my father would go to the store on Sunday and take us along and we'd work, either stocking shelves or pulling out merchandise.''

He is the second of four children—older brother Raymond is chairman of the Times board. Wayne's first real job was a bag boy at Times:

''I must have been 14–15. I had fun bagging groceries. Then after a few summers, I trained to be a cashier, which I really enjoyed—that's where you get the direct contact with the customers. We always tried to see who could pull in the biggest loads (ring up the most sales). And those were not the automatic scanning days like now. We punched those big NCR (National Cash Register) machines with rows and rows of keys.''

Was it tougher being the son and nephew of the bosses?

''I don't think so,'' Teruya says. ''The problem is I was never sure of how good of a job I was doing because maybe people didn't want to tell me I was doing something wrong because of who I was. But hopefully I never did anything wrong.''

He graduated from Mid-Pacific Institute and the University of Hawaii, where he majored in accounting.

''I worked for a CPA firm just for a little while at the end of my college years and right after I graduated,'' he says. ''But then I had the opportunity to get into the Times accounting department.''

He rose to vice president of sales and executive vice president before being named president and CEO two years ago.

It was during his UH years that he met his wife, Sharon. They are the parents of three sons: Weston, 19, a sophomore at Pomona University in California; Wade, a high school senior and Wyatt, a high school sophomore.

So far, Wade is the only third-generation son who has expressed any interest in the grocery biz.

''If they ever get interested, fine,'' Teruya says. ''I don't want to push them into the business. My father didn't push us into the business. I worked part-time and after a while I decided it was fun.''

He met Sharon, he says, ''at a beach party at Ala Moana. Nowadays, it's kind of spooky down there at night; I'd never want my kids doing that. But it was love at first sight—for me, not for her. I had to chase her for a while. But we just had our 25th anniversary.''

His advice for staying together long enough to celebrate a silver anniversary: ''Don't get upset when you have fights. You have to expect to have disagreements. And you have to discuss each other's point of views, so you understand where you're both coming from. And just stick in there because you'll have your ups and downs.''

That sounds a lot like his business philosophy, too.●

TRIBUTE TO DIANA LEWIS

• Mr. WARNER. Mr, President, I rise today to extend my warmest congratulations to Diana Lewis of Charlottesville, VA, on her selection as the 1996 Private Sector Employee of the Year by the General Council of Industries for the Blind and the National Industries for the Blind. She will be honored at their Annual Training Conference on October 8, 1996.

Ms. Lewis was born with congenital cataracts. She underwent several eye operations as a young child, which delayed her entry into school. However, her desire to succeed did not waiver. She attended Romney School for the Blind in West Virginia but left school early to marry, become a homemaker, and eventually became the mother of two sons.

Ten years ago, Ms. Lewis moved to the Commonwealth and soon faced the challenge of finding her first job. As a single parent with two young sons, Ms. Lewis turned to the Virginia Industries for the Blind [VIB], a division of the Virginia Department for the Visually Handicapped [VDVH], for employment and training opportunities. She quickly demonstrated her desire to succeed by mastering many sewing operations, becoming an accomplished seamstress.

During her employment at the Virginia Industries for the Blind, Ms. Lewis earned her general education diploma [GED] and continued her education to become a certified nursing assistant. She joined Westminster Canterbury of the Blue Ridge in Charlottesville a year ago, and is currently employed as a certified nursing assistant in the skilled care unit. As a nursing assistant, Ms. Lewis tends to elderly residents who require constant care. Ms. Lewis hopes to one day become a physical therapist.

Ms. Lewis' drive and dedication to overcome adversity makes her an example for all of us. I am pleased to join Ms. Lewis and her family and friends in wishing her much success in all of her future endeavors. Ms. Lewis is an outstanding representative of the blind community in Virginia, and I ask you to please join me in congratulating her as the 1996 Private Sector Employee of the Year.•

SHUT DOWN THE U.S. ARMS BAZAAR

• Mr. SIMON. Mr. President, one of the finest editorials I have read in recent months appeared in the Chicago Tribune, titled ''Shut Down the U.S. Arms Bazaar.''

It is contrary to the security of the interest of the United States that we are the No. 1 arms merchant in the world. Not only are we the No. 1 arms merchant, but we subsidize what ultimately can prove harmful to our security.

And it is not only a threat to our security.

When I visit a place like Angola and see so many children going about with one leg missing or two legs missing and know that this has been caused, in part, by land mines built in the United States, or financed by the United States, I am troubled.

Again and again, we are in a situation where we find American weapons used against our troops. That should teach us something, but it doesn't seem to.

This is one editorial that every Member of the Senate and every staff member should read.

I ask that the editorial be printed in the CONGRESSIONAL RECORD.

The editorial follows:

[From the Chicago Tribune]

SHUT DOWN THE U.S. ARMS BAZAAR

President Clinton spoke eloquently and probably expressed the view of most citizens when, accepting the Democratic Party's nomination in Chicago last month, he pledged that U.S. foreign policy would be one that ''advances the values of our American community in the community of nations.''

Here's a place to start, Mr. President: End the outdated and outrageously dangerous policy of encouraging sales of American weapons abroad, particularly to countries in the developing world, unless there is a compelling U.S. security interest to be defended.

What American value is represented by the fact that the U.S. remains the largest exporter of weapons in a post-Cold War world in which there is no monolithic enemy to be contained?

Although Russia made the news in recent days by outstripping the U.S. in sales of arms to Third World governments in 1995, a careful reading of the report showed that this was an artifact of one transaction: a $6 billion sale of fighter jets to China.

Otherwise, however, Uncle Sam is boss of the arms bazaar, with contracts for about half of all arms sales worldwide. Year in and year out, America sells more weapons to the Third World than any other country.

Certainly these developing lands could put their scarce financial resources to better use, namely to build or improve schools, hospitals, sanitation and transportation systems.

Aha, you say! If the U.S. stops selling these arms abroad, someone else—Russia, France, Italy, Germany, Britain, the Czech Republic, even—will rush in and snatch up the lucrative contracts.

So what? Of the 50 armed conflicts in this decade—mostly vile ethnic, religious or tribal rivalries, guerrilla uprisings and petty territorial disputes—45 were fought with weapons stamped ''Made in the USA.''

Should weapons sales be our ambassador of democracy? Is increasing the efficiency of armed combatants, without regard to vital U.S. interests, a value we choose to represent America abroad?

Even espousing a traditional sense of national security, the U.S. can dominate the international arms market, according to Sarah Walkling, a senior analyst with the Arms Control Association. That's because NATO, the western military alliance that is the backbone of American national security and includes this nation's dearest allies, is the largest market for U.S. arms, consuming 43 percent of American weapons sales abroad at a cost of $3.9 billion. NATO will continue to be the biggest client for American weapons, which is a fine thing for all concerned.

But now Chile wants U.S. F–16 jet-fighters. With no international threat to the region, to what purpose would those top-of-the-line attack craft be put? Only to act upon territorial ambitions and border disputes and to spark a wasteful hemispheric arms race.

And then there's Indonesia. Indonesia is in the midst of a crude crackdown on political dissent that is the antithesis of values America wants to promote. Should Indonesia get the F–16s it wants? Certainly not.

Although Clinton pledged a values-driven foreign policy, a Presidential Decision Directive he signed last year pushes arms sales abroad to ''enhance the ability of the U.S. defense industrial base, to meet U.S. defense requirements and to maintain long-term military technological superiority at lower costs.''

That, in the words of William Hartung, a senior fellow of the World Policy Institute at the New School for Social Research, is nothing but welfare for big arms manufacturers and weapons dealers.

In order to help American firms get to a bigger share of the world arms market, the U.S. government spent $7.6 billion—in 1995 alone—in subsidies, grants, guaranteed loans and cash payments, and in the use of government personnel to promote products and overseas air shows, Hartung says.

The argument that these arms sales abroad protect jobs at home is no longer necessarily true, since many new purchasers now demand, as part of the contract, the right to produce these expensive weapons on their turf. Thus, Hartung says, the biggest production line for the F–16 is no longer in the U.S. but in Turkey.

Even more sinister is the concept of ''blowback.''

During the Cold War, a powerful argument for arms sales abroad was to allow the United States leverage over foreign powers and to give us inside knowledge about another power's arsenal—to ''know what we're up against.'' Today, all bets are off, and what American troops have come up against is the finest American weapons wielded by opposition troops—in Panama, in Iran, in Iraq, in Haiti, in Somalia and, to a smaller extent, in Bosnia.

America cannot control its weapons once sold. Allies whose national security interests coincide with ours deserve our trust and have earned the right to purchase American-made weapons.

But weapons sales motivated solely by a market opportunity merely fuel conflict—conflict that may require America to step in later with its diplomatic and military muscle.

There is no profit in that.•

AD-HOC HEARING ON TOBACCO

• Mr. LAUTENBERG. Mr. President, on September 11th, I co-chaired with Senator KENNEDY an ad-hoc hearing on the problem of teen smoking. We were joined by Senators HARKIN, WELLSTONE, BINGAMAN and SIMON. Regrettably, we were forced to hold an ad-hoc hearing on this pressing public health issue because the Republican leadership refused to hold a regular hearing, despite our many pleas.

We held this hearing to listen to real people tell us about the addictiveness of nicotine and their support for the President Clinton's FDA proposal to cut teen smoking in half. Unlike one of the other Presidential candidates, we know that nicotine is addictive. And we know that the FDA should regulate it and protect our children.

We also made it clear that we will reject half hearted compromise legislative proposals which do not protect our children from the tobacco companies.

Essentially, we will oppose any compromise legislation that does protect FDA's ability to safeguard our kids or the public health. Our first priority in any legislative settlement should be to save our children from future nicotine addiction.

Mr. President, President Clinton deserves credit for being the first President in recent history to take on the tobacco companies. He has an excellent record of protecting our children.

However, this Congress' record on tobacco and children is shameful.

On January 3, 1995, a new Republican majority took over Congress. They publicly pushed their Contract with America. But privately, they pursued another contract—a contract of silence with the tobacco companies.

Since the Republicans took over Congress, more than 660,000 people have died from smoking and over 1.7 million of our children have begun smoking.

What has been this Congress' response to this public health epidemic? Pure silence.

In one fell swoop—gone were the House hearings where the CEO's swore under oath that nicotine was not addictive. And gone were the Senate hearings on the dangers of secondhand smoke and the health care benefits of increasing the tobacco tax.

It took President Clinton's bold FDA policy to break the silence. And we need to make more noise—to stop our children from ever becoming hooked. We need to fight the biggest cause of preventable death in America—tobacco use. Because like AIDS, silence equals death when it comes to tobacco.

At the hearing, we heard from several witnesses who have first-hand knowledge of the dangers of tobacco addiction. We heard from Justin Hoover, a 12-year-old boy from West Des Moines, IA who told us how he smoked his first cigarette at the age of 6, and was addicted to tobacco when he was 9. He told us how easy it was for him to obtain cigarettes, often by stealing them. He told us how difficult it has been for him to try and break his addiction, despite the best efforts of his mother, teachers, and his DARE officer, Jody Hayes, who accompanied Justin at the hearing.

Officer Hayes said that the level of smoking among teens is the worst that he has seen. He also told us that tobacco is clearly a gateway drug that can lead to marijuana and cocaine use. He strongly admonished us that ''we have to stop drug use where it starts, and that is with tobacco.''

We also heard from Minnesota Attorney General ''Skip'' Humphrey who told us of his concerns of proposed Federal legislation to resolve all litigation and regulation affecting the tobacco industry. He noted that it is essential that tobacco ''like every other product Americans eat, drink or ingest, be placed under the on-going jurisdiction of an appropriate Federal agency, such as the FDA.''

We listened to the testimony of Dr. Ian Uydess, who worked as a research scientist for Philip Morris for over 10 years. He told us how well informed the tobacco industry has been regarding the health effects and addictive quality of tobacco. He said that the major tobacco companies could have used this information to develop a safer product, but they chose not to do so.

We also heard from Morton Downey, Jr., the former talk-show host whose symbol was the smoking cigarette butt. As he has contracted lung cancer, he now asks forgiveness from the young people he may have influenced to smoke.

Alan Landers, a former Winston model, told us of the pain caused by two lung operations. He gave riveting testimony on the addictiveness of tobacco. He told us that he was smoking the night before he was to have lung surgery because he could not quit. He now tours high schools warning children of the dangers of smoking.

Janet Sackman, another former cigarette model, bravely testified how when she was 17, she was told by an agent that if she wanted the look to get ahead in the business, she should start smoking. She developed cancer of the larynx and now struggles to speak.

Mr. President, these people are a testament to the tragedy of tobacco addiction in this country. And they all have two things in common. They started smoking before they were 18 and they all have cancer. These examples demonstrate why the President's proposal to protect our children is so crucial.

Mr. President, after I complete my statement, I am going to ask that the statements of the participating in ad-hoc hearing be placed in the record. Over the next 3 days I will insert the testimony of the witnesses from each of the three panels. I hope that all of my colleagues, from both chambers and both sides of the aisle will read these compelling statements. Regrettably, this will be the only hearing record on tobacco issues this Congress, despite the constant revelations in the press about industry documents outlining the dangers of smoking.

I only hope that the next Congress' record on protecting our children is not as shameful.

Mr. President, I ask that the statements of the Senators attending this ad-hoc hearing be printed in the RECORD.

The statements follow:

STATEMENT BY SENATOR FRANK R. LAUTENBERG

First, I would like to thank Senator Kennedy for co-chairing this hearing with me and all of the other Senators who are participating. I would also like to welcome and thank all of the witnesses for being here at today's ad-hoc hearing on teen smoking.

We are here to show our support for the FDA proposal to cut teen smoking in half. Unlike one of the Presidential candidates, we know that nicotine is addictive. And we know that the FDA should regulate it and protect our children.

Today, we are also here to say that we will reject half hearted compromise legislative proposals that do not protect our children.

We will oppose any compromise legislation that does protect FDA's ability to safeguard our kids or the public health. Our first priority in any settlement should be to save our children from future nicotine addiction.

President Clinton deserves credit for being the first President in recent history to take on the tobacco companies. He has an excellent record of protecting our children.

On the other side of Pennsylvania avenue, however, this Congress' record on tobacco and children is shameful.

On January 3, 1995, a new Republican majority took over Congress. They publicly pushed their Contract with America. But privately, they pursued another contract—a contract of silence with the tobacco companies.

Since the Republicans took over Congress, 660,488 people have died from smoking and 1,764,000 children began smoking.

What has been this Congress' response to this public health epidemic? Pure silence!

In one fell swoop—gone were the House hearings where the CEOs swore under oath that nicotine was not addictive. And gone were the Senate hearings on the dangers of secondhand smoke and the health care benefits of increasing the tobacco tax.

It took President Clinton's bold FDA policy to break the silence. And we are here to make more noise—to stop our children from ever becoming hooked. We are here to fight the biggest cause of preventable death in America—tobacco use. Because like AIDS, silence equals death when it comes to tobacco.

Today, we will hear from people who know firsthand about the dangers of smoking. We will hear from a 12 year old child who is addicted to cigarettes and his DARE officer. We will hear from a former Philip Morris research scientist who will tell us that the tobacco industry knew full well that nicotine was addictive and manipulated it to hook smokers. We will hear form Minnesota Attorney General ''Skip'' Humphrey who is taking on the tobacco industry in court on behalf of our children.

Before we proceed, I wanted to let the participants know that there will not be an official hearing transcript for this proceeding but I will insert all written statements into the Congressional record so your stories will become part of the official record of the Senate. I hope my colleagues from both sides of the aisle and both chambers, will read your testimony and work with us to save our children.

STATEMENT OF SENATOR EDWARD M. KENNEDY

Twenty-nine years ago today, on September 11, 1967, my brother, Senator Robert Kennedy addressed the World Conference on Smoking and Health. Representatives of thirty-four nations had gathered in New York to talk about ways to stop mounting death rates from cigarette smoking.

He spoke to his audience about the difficulty of convincing people—young persons, in particular—that smoking can kill them. He emphasized grim statistics of premature death and illness caused by smoking. He said that cigarettes would have been banned years ago—were it not for the economic power of the tobacco industry.

Limiting cigarette advertising was at the top of his list of strategies to discourage young men and women from beginning to smoke. At that time, the industry was spending $300 million a year to attract new smokers.

Since then, the amount the industry spends on advertising has soared to $6 billion a year. Much of this advertising is targeted at youth, with images that promise popularity and success for those who smoke. Children are particularly vulnerable to this sort

of advertising. The Joe Camel campaign was cynically targeted directly at youth. Profits rolled in, and Camel's market share among youth soared from 0.5% to 32.8%.

The industry targets youth because it knows that almost all smokers begin before they reach the age of 18. If you make it to 18 without smoking, it's very unlikely you'll ever smoke. The average smoker begins at 13—and becomes a daily smoker by 14 and a half.

For over 30 years, using its relentless political power, the tobacco industry has managed to avoid needed federal regulation of their product. it has been said that tobacco is the least regulated of any legal product.

Now, at last, President Clinton has had the courage to insist on real steps to reduce youth access to tobacco and tobacco advertising aimed at youth. His goal is to cut teen smoking in half over the next seven years.

President Clinton's proposal comes at a crucial time for America's youth. Not only has smoking been rising steadily among adolescents since 1992, but drug use, especially use of marijuana, is also rising among this same group.

Clearly, tobacco is a gateway drug. If we reduce tobacco use, we will reduce other drug use too. According to a 1994 report by the National Center on Addiction and Substance Abuse at Columbia University, children who smoke cigarettes are 12 times more likely to use marijuana and 19 times more likely to use cocaine.

Our hearing today is intended to deal with these important issues. It speaks volumes that the Republican Congress is unwilling to hold a hearing like this. But we hope they will pay attention to the facts we will hear.

STATEMENT OF SENATOR TOM HARKIN

I want to join my colleagues in thanking all of the witnesses who have given their time to be with us today, and I want to add a special welcome to our witnesses here from West Des Moines, Iowa—Justin Hoover and Officer Jody Hayes—who I will be introducing in just a moment.

All of us are here because we all agree—we need to protect our children from tobacco—and we need to do it now.

For too long, young people have been getting an unfiltered message from the tobacco industry. Smoking is cool. Smoking is harmless. Smoking will make you look older and more attractive.

Today, the tobacco industry pours over $6 billion a year into advertising their products and promoting that message. And often they are zeroing in on our kids—through magazine ads, billboards, sporting events, and, of course, the ubiquitous Joe Camel.

We know what these tobacco advertising campaigns are all about. They are deliberately designed to keep people smoking, but more importantly, to attract a new generation to the smoking habit. In fact, according to a study published in the Journal of the American Medical Association, Joe Camel is just as recognizable to six-year old as Mickey Mouse.

But the industry hasn't stopped with Joe Camel. Joe and his competitors have started merchandising ''clubs'' in which you can smoke your way to all sorts of gifts. A 1992 Gallup survey found that about half of adolescents smokers and one quarter of nonsmokers owned at least one tobacco industry promotional item.

The motivations of these tobacco companies is clear. They'll do anything to make a buck. But I can't understand irresponsible statements made by some of our elected officials regarding tobacco.

Some in Congress have compared tobacco to milk or to chicken soup. What kind of message does that send to our kids?

There is a difference. Milk builds. Tobacco destroys. Chicken soup heals. Tobacco kills.

The only message that our children should hear about tobacco is the truth. Smoking is a killer. Smoking is addictive. Smoking stinks. It's a deadly habit that will make kids less attractive and less fit. That message needs to come through loud and clear so children like Justin are never tempted in the first place.

That message needs to start at home. Parents need to let their children know about the dangers of tobacco. But the message shouldn't end in the home. All of us can be partners with families in the fight against tobacco.

We need to make much more difficult for children to get their hands on tobacco in the first place.

Kids shouldn't be able to walk into a convenience store and purchase cigarettes . . . or buy them out of a vending machine . . . or even be tempted to steal cigarettes left in the open in self-service displays.

President Clinton has put forth a responsible plan. The President's plan is the right thing to do. It will help families keep tobacco out of the hands of their children. And I strongly support it.

But I believe we can do more to protect kids from tobacco and strengthen families. That's why I have introduced common sense legislation to eliminate the tax deductibility of tobacco advertising. Today, American taxpayers are forced to cough up nearly $2 billion a year to subsidize the tobacco industry. That's not right and we ought to stop it.

Again, I want to welcome Justin Hoover and Jody Hayes. Justin is 12 years old and is from West Des Moines Iowa. He smoked his first cigarette when he was 6-years old.

He is going to tell us how and why he started smoking, how he has tried to quit, and how easy it is for him to obtain cigarettes.

I also want to welcome Officer Jody Hayes who is a Community Relations Officer for the West Des Moines Police Department. He is a D.A.R.E. (Drug Abuse Resistance Education) officer and works with students from pre-school to high school. He is on the front lines in the fight against drug abuse.

And he has seen first hand how easy it is for young children to gain access to tobacco and how vulnerable they are to the industry's message that smoking is cool.

Officer Hayes, I want to thank you for not only being here today, but for the work you do day in and day out to protect our kids and help them stick to the right path. I just can't understand why some in Congress want to cut funds for the D.A.R.E. program and stop people like you from doing the great work you do.

STATEMENT OF SENATOR JEFF BINGAMAN

I am pleased to be a part of this Ad-Hoc hearing on tobacco issues and in particular the health effects of tobacco use. As many of you know, I have been a strong advocate of taking a tough stand on the issue of federal regulation of tobacco products. Since 1989, I have been working to require the Food and Drug Administration (FDA) to regulate the manufacture and sale of tobacco products. I was very proud last year when Congress approved my legislation banning cigarette vending machines in federal buildings on most federal property, and very pleased earlier this year when the General Services Administration (GSA) ordered the removal of the machines.

For many years, I also have been working to ban tobacco vending machines on Federal property that are accessible to children. Clearly, something is not working when, every day, more than 3,000 children and teenagers start smoking and 1,000 of them will die from tobacco related illness. In New Mexico, nearly one-third of the state's teenagers smoke. According to the Centers for Disease Control and Prevention, New Mexico has a teenage smoking rate of 32.6 percent—only eight other states have higher rates. It is difficult to prevent children from buying cigarettes when they are readily accessible from vending machines. If we expect states, localities, schools, parents, and even the tobacco industry itself to help protect our children from tobacco, then we in the federal government should lead the effort.

It is time for a new course of action. I am very pleased that President Clinton is expanding the Federal role in fighting teen smoking. This initiative to reduce tobacco use by children recognizes the responsibility that the federal government should take to protect our children from tobacco use.

Finally, 10 years ago as a senior member of the Armed Services Committee, I first introduced legislation aimed at discouraging tobacco use in the military by raising the prices of tobacco products in military commissaries to local prevailing prices. Cigarettes are much cheaper in commissaries and exchanges than they are in the civilian market. In August this year, the Department of Defense (DoD) ordered the sale of tobacco products found in commissaries and exchanges to be sold at local prevailing prices. I am pleased to see that the DoD now agrees that we need to stop sending mixed signals to military personnel about the importance of healthy lifestyles while at the same time deeply discounting tobacco products in military stores.

I commend my colleagues here today for keeping this very important issue alive during this Congress and for leading the effort to continue to address the types of laws and policies that will protect our children from tobacco.

STATEMENT OF U.S. REPRESENTATIVE MARTY MEEHAN

I want to thank Senators Ted Kennedy and Frank Lautenberg for allowing me to submit my testimony before this ad hoc committee hearing on tobacco. I appreciate the opportunity to participate in this important, if unofficial, event.

The new majority, in both the House and Senate chambers, does not believe that the epidemic of youth smoking is an important enough issue to merit an official hearing. Only through the leadership of Senators Kennedy and Lautenberg is today's ad hoc hearing possible. I commend them both for organizing this event.

Nicotine addiction and subsequent tobacco related illnesses are the leading cause of preventable death in the United States. Each year, more than 400,000 smokers prematurely die due to tobacco related illnesses. The ranks of smokers, however, are replenished by our nation's children.

Tobacco companies have long targeted and marketed their wares towards America's kids. RJ Reynolds' Joe Camel campaign is only the latest in a string of strategies the tobacco industry has employed to entice young people. The industry is forced to target children because adults, in the face of overwhelming medical and scientific evidence, are not impressionable enough to start using a product that, if used as directed, will kill them.

The tobacco industry is committed to pushing cigarettes and smokeless tobacco product. In fact, each year the industry spends more than $6 billion on advertising and marketing in the United States. This massive advertising is successful for the industry. Eighty-six percent of underage smokers buy the three most heavily advertised

brands—Marlboros, Camels and Newports. Moreover, ninety-one percent of six year-olds identify Joe Camel as a symbol of smoking.

As a result, 3,000 children a day, convinced through a combination of peer pressure, advertising and popular culture, start smoking. 1,000 of these youngsters will ultimately die from tobacco related illnesses.

President Clinton has taken a historic move in directing the Food and Drug Administration to enact the first-ever program to protect children from tobacco. The FDA has concluded that cigarettes and smokeless tobacco are delivery devices for nicotine, a drug that causes addition and other significant pharmacological effects.

The FDA's regulations, which are intended to reduce underage tobacco use by fifty percent over the next seven years, include long overdue restrictions on advertising and marketing, along with an industry sponsored tobacco control campaign.

I strongly support President Clinton's heroic leadership on this most important issue. Unfortunately, the tobacco industry has many allies here on Capitol Hill who will most likely launch an effort to derail the FDA's regulations.

According to recent reports, the tobacco industry, in just the first six months on 1996, has spent more than $15 million lobbying Congress, the White House and federal agencies. Moreover, campaign donations, both soft and hard, are up dramatically, as the industry prepares to launch a most expensive offense against federal efforts to control youth tobacco use.

While the industry may have the financial wherewithal to spend millions of dollars to influence legislators and advertise their misleading messages, public opinion seems to have permanently shifted against Big Tobacco. Through internal documents and the brave testimony of former employees, two of who are here today, decades of duplicity on behalf of the Big Tobacco have been exposed and etched into the collective consciousness of the American people.

Those of us in Congress who support President Clinton's actions on tobacco have a responsibility to not only herald these regulations but also hold the line against industry efforts to water them down. Today's hearing should reinforce the idea that the FDA's regulations, and jurisdiction, is necessary to protect future generations of American children. Once again, I applaud the leadership of Senators Kennedy and Lautenberg on this issue and I look forward to working with both of them in the future.●

SALUTE TO ''ODYSSEY OF THE MIND'' PARTICIPANTS FROM BETHANY, CONNECTICUT

Mr. DODD. Mr. President, I rise today to pay tribute to a group of remarkable young people from my home State of Connecticut. For the past 4 years, students from Bethany, a small, rural community in Connecticut, have participated in an international problem-solving competition called Odyssey of the Mind. This competition gives children in grades kindergarten through 12 the opportunity to develop their problem-solving and team-building skills by challenging students to develop unique ways to solve one of five long-term problems. A team spends countless hours together to develop and perfect a unique solution to the problem set before them. Their efforts are judged in a state competition and the winning team is asked to represent their state or country at the Odyssey of the Mind World Finals.

Earlier this year, two groups of students from Bethany, CT, won first place in their respective categories at Connecticut's Odyssey of the Mind State Finals and traveled to Iowa to represent the State of Connecticut at the Odyssey of the Mind World Finals.

Connecticut is very proud of Rosa Allison, David Berv, Ian Stebinger, Amanda Kaletsky, Amanda Sherman and Grace Menzies, who made up a team that won a gold medal in the Connecticut Odyssey of the Mind Competition 3 years in a row. I would also like to salute the hard work and dedication of Joshua Gewirtz, Elizabeth Cowan, Matt Voloshin, Jane Ballerini, Peter Geloso, Kerrilee Hunter and Paula Rashkow who also represented Connecticut at the Odyssey of the Mind Finals this year. In addition, I congratulate the students' coaches for a job well done.

Clearly, these young students are fine examples of what can be accomplished when people put aside their differences and work together toward a common goal. Their creativity, hard work, perseverance and willingness to take risks remind us that Yankee ingenuity is still alive in Connecticut. I salute these young people and am confident that we will all be hearing more about these exceptional students in the future.

COMMEMORATION OF LAWSUIT ABUSE AWARENESS WEEK

● Mr. ROCKEFELLER. Mr. President, today I want to acknowledge a group of citizens in West Virginia who are speaking out on the issue of lawsuit abuse in an effort to serve the public.

In many areas of West Virginia, local citizens have volunteered their time to start Citizens Against Lawsuit Abuse groups and to initiate public awareness campaigns in their areas about what they see as the problems of lawsuit abuse.

The CALA groups focus on education. These citizens are speaking out about an issue that has statewide and national implications. The costs of lawsuits can include higher costs for consumer products, higher medical expenses, higher taxes, and fewer jobs due to lost business expansion and forgone product development.

Citizens Against Lawsuit Abuse has a straightforward goal. They want to help the public prevent unnecessary lawsuits that do more harm than good.

West Virginians are not the type of people to walk away from a problem. When we see something that's clearly wrong, we work to make people aware of it, and we try to make it right. CALA members believe that they have the opportunity to reform our laws so that the legal system is more fair, more effective, and more sensible to serve everyone's interests.

These nonprofit groups have raised local funds to run educational media announcements and are speaking to local organizations and citizen groups across the State to raise public awareness on the lawsuit abuse issue.

While the local groups have thousands of supporters, there are also a few individuals who should be recognized for their leadership and for dedicating countless volunteer hours. These individuals are: Tom Harriman of Kingwood, founding chairman of CALA of northern West Virginia; Jim Thomas of Charleston and Jack Klim of Huntington, cofounders and spokespersons of CALA of southern West Virginia; and Ken Lowe of Shepherdstown, founding chairman of CALA of eastern West Virginia.

Citizens Against Lawsuit Abuse groups have declared September 22 through September 28, 1996, to be Lawsuit Abuse Awareness Week in West Virginia. I want to commend all of the individuals who are involved in Citizens Against Lawsuit Abuse for their dedication and commitment to this important citizen education project.

As someone who has been a leader in the battle of product liability reform, I continue to hope for the kind of education, dialog, and consensus-building clearly needed to address problems in our legal process that hurt consumers, victims, and the private sector. I encourage CALA to continue raising these issues and promoting solutions that ensure justice and improve the legal system. West Virginia and the country as a whole need informed, educated, and dedicated citizens to help elected officials address serious issues and achieve reforms when necessary.●

POSTAL SERVICE IN GEORGIA

● Mr. COVERDELL. Mr. President, as we complete the appropriations process for fiscal year 1997, I would like to take this opportunity to make my colleagues aware of the unacceptable manner in which the Postal Service has operated in a matter involving an address change request in my home State of Georgia.

Mr. President, for 25 years, residents of an area informally known as Centerville, GA, located in Gwinnett County, have been trying to work with the Postal Service for a facility that is closer to their homes, and an address that reflects the location in which they live. Although these Georgians reside in Gwinnett County, their address is dictated by the Postal Service is Lithonia, GA—a town that is approximately 15 miles away, and is located in a different county.

Not only are those citizens having problems with their mail delivery, such as stolen and misdelivered mail, their address designations has created great confusion in dealing with everyday household issues such as emergency service, insurance, property taxes, sales taxes and parcel delivery. Even small matters, such as ordering a take-out pizza, often result in unnecessary confusion and inconvenience when giving addresses. In addition, a round trip

to the post office to pick up certified mail or parcels is more than a 30 minute round trip for these people—metro-Atlanta traffic notwithstanding.

Instead of recognizing the problems that the Postal Service's address designation was causing for these residents and trying to work out a mutually agreeable solution, the Postal Service has treated the requests of these residents in a manner unbecoming of an agency of the United States, and has acted in complete disregard for principle. In the name of efficient delivery of mail, the Postal Service has steadfastly refused the repeated requests of these residents to move their routes to a facility in Snellvile, GA, which is located less than 3 miles from their homes. Postal Service representatives have even gone as far as to attack the motives of the residents requesting this change.

Mr. President, to give you an idea of the overwhelming community commitment to a change of address, approximately 5,000 Gwinnett County residents have been assigned a Lithonia address by the Postal Service, and my office received a petition from 4,024 of these residents requesting an address change.

When this matter first came to my attention, our office in conjunction with Congressman JOHN LINDER made several inquiries to the Postal Service, and at each point received conflicting responses. As we delved further into the matter, we learned that the Postal Service had not been completely open and honest in its responses.

Postal representatives have also refused to honor an offer to set up temporary postal facilities if a location could be found rent-free for 2 years. There appears to be some confusion among postal representatives on the exact details of the offer.

We understand and appreciate the Postal Service's mission of timely and efficient delivery of our mail, but this does not override the fact that the Postal Service is an agency of the U.S. Government and is subject to abide by the principles of government by the people and for the people as is outlined in our Constitution.

After almost a year of negotiations, the Postal Service has now made an offer to the residents to change the last line of their address to Annistown, GA, and to provide them with a new Zip Code. However, the Zip Code change has yet to be approved. Although this does not solve the problem of the proximity of a postal facility, it will help them in dealing with the difficulties that their address was creating. I therefore urge the swift approval of this Zip Code change by the Postal Service.

At a town meeting held to discuss the proposal, the Postal Service refused to officially attend to answer questions that the community had about the proposed change. However, after the meeting, we learned that Postal Service employees secretly attended the meeting and took notes.

Mr. President, it is my opinion that this type of behavior is completely inappropriate for the employees of an agency of the U.S. Government. The Postal Service had every opportunity to make its argument in a public forum, and chose not to do so.

This is the second entanglement I have had with the Postal Service where I have found their behavior to be an abomination to the citizens of our country. If the Postal Service continues to operate in such a manner, we must consider the need for further congressional oversight.●

COMMENDING OPERATION SAIL

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Joint Resolution 64, a joint resolution to commend Operation Sail, introduced earlier today by Senators DODD, D'AMATO, and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 64) to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

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. FRIST. Mr. President, I ask unanimous consent that the joint resolution be deemed read three times; passed; the motion to reconsider be laid on the table; further, that any statements relating thereto appear at this point in the RECORD, as if read.

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

The preamble is agreed to.

The joint resolution (S.J. Res. 64) was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 64

Whereas Operation Sail is a nonprofit corporation dedicated to building good will among nations and encouraging international camaraderie;

Whereas Operation Sail has represented and promoted the United States of America in the international tall ship community since 1964, organizing and participating in numerous tall ship events across the United States and around the world;

Whereas Operation Sail has worked in partnership with every American President since President John F. Kennedy;

Whereas Operation Sail has established a great tradition of celebrating major events and milestones in United States history with a gathering of the world's tall ships, and will continue this great tradition with a gathering of ships in New York Harbor, called OpSail 2000, to celebrate the 224th birthday of the United States of America and to welcome the new millennium;

Whereas President Clinton has endorsed OpSail 2000, as Presidents Kennedy, Carter, Reagan, and Bush have endorsed Operation Sail in previous endeavors;

Whereas OpSail 2000 promises to be the largest gathering in history of tall ships and other majestic vessels like those that have sailed the ocean for centuries;

Whereas in conjunction with OpSail 2000, the United States Navy will conduct an International Naval Review; and

Whereas the International Naval Review will include a naval aircraft carrier as a symbol of the international good will of the United States of America; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Operation Sail is commended for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship;

(2) all Americans and citizens of nations around the world are encouraged to join in the celebration of the 224th birthday of the United States of America and the international camaraderie that Operation Sail and the International Naval Review will foster; and

(3) Operation Sail is encouraged to continue into the next millennium to represent and promote the United States of America in the international tall ship community, and to continue organizing and participating in tall ship events across the United States and around the world.

EXPRESSING THE SENSE OF THE SENATE CONCERNING AFGHANISTAN

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar item 515, Senate Resolution 275.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 275) to express the sense of the Senate concerning Afghanistan.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with an amendment, as follows:

(The part of the bill intended to be stricken is shown in bold face brackets and the part of the bill intended to be inserted is shown in italic.)

S. RES. 275

Whereas, prior to 1979, Afghanistan was a peaceful, united country;

Whereas, the successful fight of brave men and women of Afghanistan resisting the Soviet invasion and occupation of 1979–1989 was a significant element in the dissolution of the Soviet empire;

Whereas the dissolution of the Soviet empire brought freedom to the nations of central and eastern Europe as well as to the nations of central Asia;

Whereas although many years after the Soviet Union withdrawal, Afghanistan does not enjoy the peace it has earned;

Whereas the United Nations can play a unique and important role in bringing an end to the conflict in Afghanistan; and

Whereas recent meetings between Members of Congress and the representatives of the major Afghan factions indicate a significant desire on the part of all parties to achieve a peaceful resolution to the conflict in Afghanistan and the establishment of an effective government that represents the interests of the Afghan people: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the courageous people of Afghanistan have earned the world's respect and support for their epic struggle against the forces of communism;

(2) resolving the continuing conflict in Afghanistan and alleviating the accompanying humanitarian distress of the Afghan people should be a top priority of the United States;

(3) outside interference and the provision of arms and military supplies to the warring parties should be halted;

(4) a unique moment in Afghan civil war exists where all major factions are searching for a peaceful solution to the conflict;

[(5) the United States should urge the United Nations to move quickly to appoint a special envoy to Afghanistan who will act aggressively to assist the Afghans to achieve a solution to the conflict acceptable to the Afghan people; and

[(6) the United Nations should work to create the conditions for a continuing dialogue among the Afghan factions.]

(5) urges the United Nations Security Council to impose an international arms embargo on Afghanistan to halt the resupply of arms and ammunition to the warring factions;

(6) the United States welcomes the appointment by the United Nations of a new special envoy to Afghanistan and urges him to aggressively assist the Afghans to achieve a solution to the conflict acceptable to the Afghan people; and

(7) the United Nations should work to create the conditions for a continuing dialogue among the Afghan factions.

Mr. FRIST. I ask unanimous consent that the amendment be agreed to, the resolution, as amended, 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 the appropriate place in the RECORD.

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

The amendment was agreed to.

The resolution (S. Res. 275) as amended was agreed to.

The preamble was agreed to.

The resolution, as amended, and the preamble are as follows:

[The resolution was not available for printing. It will appear in a future issue of the RECORD.]

JAMES A. REDDEN FEDERAL COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 615, S. 1875.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1875) to designate the U.S. courthouse in Medford, OR, as the ''James A. Redden Federal Courthouse.''

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. FRIST. I ask unanimous consent that the bill be deemed read a third time, 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. 1875) was deemed to be read a third time and passed, as follows:

S. 1875

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

SECTION 1. DESIGNATION.

The United States courthouse at 310 West Sixth Street in Medford, Oregon, shall be known and designated as the ''James A. Redden Federal Courthouse''.

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the ''James A. Redden Federal Courthouse''.

VEACH-BALEY FEDERAL COMPLEX

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 617, H.R. 2504.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2504) to designate the Federal building located at the corner of Patton Avenue and Otis Street, and the U.S. courthouse located on Otis Street, in Asheville, NC, as the ''Veach-Baley Federal Complex.''

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. FRIST. I ask unanimous consent that the bill be deemed read a third time, 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. 2504) was deemed read for a third time and passed.

SAMMY L. DAVIS FEDERAL BUILDING

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 618, H.R. 3186.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3186) to designate the Federal building located at 1655 Woodson Road, in Overland, MO, as the ''Sammy L. Davis Federal 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. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid on 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. 3186) was deemed read for a third time and passed.

ROMAN L. HRUSKA UNITED STATES COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, H.R. 3400.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A bill (H.R. 3400) to designate the Federal building and United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, as the ''Roman L. Hruska Federal Building and United States Courthouse.''

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. FRIST. I ask unanimous consent that the bill be deemed read a third time, 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. 3400) was deemed read for a third time and passed.

SAM M. GIBBONS UNITED STATES COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 3710 and the Senate proceed to its consideration.

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

The assistant legislative clerk read as follows.

A bill (H.R. 3710) to designate the United States courthouse under construction at 6111 North Florida Avenue in Tampa, Florida, as the ''Sam Gibbons United States Courthouse.''

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. FRIST. I ask unanimous consent that the bill be deemed read a third time, 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. 3710) was deemed read for a third time and passed.

WALHALLA NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 3546, and the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R 3546) to direct the Secretary of the Interior to convey Walhalla National Fish HATCHery to the State of South Carolina.

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. 5398

(Purpose: To add a provision to correct a coastal barrier resources map)

Mr. FRIST. Mr. President, Senator HOLLINGS has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. HOLLINGS, proposes an amendment numbered 5398.

The text of the amendment is as follows:

Before section 1, insert the following:

TITLE I—WALHALLA NATIONAL FISH HATCHERY

At the end of the bill, add the following:

TITLE II—CORRECTION OF COASTAL BARRIER RESOURCES MAP

SEC. 201. CORRECTIONS OF MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to move the southern-most boundary of Unit SC–01 of the Coastal Barrier Resources System (known as the ''Long Pond Unit'') to exclude from the Unit the structures known as ''Lands End'', ''Beachwalk'', and ''Courtyard Villas'', including the land lying between the structures. The corrected southern boundary shall extend in a straight line, at the break in development between the coast and the north boundary of the unit.

(b) MAPS.—The set of maps described in this subsection is the set of maps entitled ''Coastal Barrier Resources System'' dated October 24, 1990, insofar as the maps relate to Unit SC–01 of the Coastal Barrier Resources System.

Mr. FRIST. I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, an amendment to the title be agreed to, 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 amendment (No. 5398) was agreed to.

The bill (H.R. 3546), as amended, was deemed read for a third time and passed.

The title was amended so as to read:

A bill to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina, and for other purposes.

CONVEYING A FISH AND WILDLIFE FACILITY TO THE STATE OF WYOMING

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 457, S. 1802.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1802) to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming 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. 5399

Mr. FRIST. Senator THOMAS has an amendment at the desk for himself and Senator SIMPSON, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. THOMAS, for himself, Mr. SIMPSON, Mr. DASCHLE, and Mr. PRESSLER, proposes an amendment numbered 5399.

The text of the amendment is as follows:

Beginning on page 2, strike line 3 and all that follows through page 3, line 11, and insert the following:

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey, in ''as is'' condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as ''Ranch A'' in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraphs (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as ''Ranch A'' in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1);

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on land conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(1) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

Mr. FRIST. Mr. President, I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and 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 amendment (No. 5399) was agreed to.

The bill (S. 1802), as amended, was deemed read for a third time and passed, as follows:

S. 1802

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

SECTION 1. CONVEYANCE OF CERTAIN PROPERTY TO WYOMING.

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey in ''as is'' condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as ''Ranch A'' in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraph (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as ''Ranch A'' in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1);

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on lang conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(1) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

TENSAS RIVER WILDLIFE REFUGE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 460, H.R. 2660.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2660) to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge.

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. 5400

(Purpose: To authorize an expansion of the Bayou Sauvage Urban National Wildlife Refuge)

Mr. FRIST. Senator JOHNSTON has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. JOHNSTON, proposes an amendment numbered 5400.

The text of the amendment is as follows:

At the end of the bill, add the following:

SEC. 3. BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE.

(a) REFUGE EXPANSION.—Section 502(b)(1) of the Emergency Wetlands Resources Act of 1986 (Public Law 99–645; 100 Stat. 3590), is amended by inserting after the first sentence the following: ''In addition, the Secretary may acquire, within such period as may be necessary, an area of approximately 4,228 acres, consisting of approximately 3,928 acres located north of Interstate 10 between Little Woods and Pointe-aux-Herbes and approximately 300 acres south of Interstate 10 between the Maxent Canal and Michoud Boulevard that contains the Big Oak Island archaeological site, as depicted on the map entitled ''Bayou Sauvage Urban National Wildlife Refuge Expansion'', dated August, 1996, on file with the United States Fish and Wildlife Service.''

Mr. FRIST. I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at the appropriate place in the RECORD.

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

The amendment (No. 5400) was agreed to.

The bill (H.R. 2660), as amended, was deemed read for a third time and passed.

The title was amended so as to read:

To increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge and for other purposes.

ANIMAL DRUG AVAILABILITY ACT

Mr. FRIST. Mr. President, I ask unanimous consent the Labor Committee be discharged from further consideration of S. 773, and the Senate immediately proceed to its consideration.

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

The assistant legislative clerk read as follows:

A bill (S. 773) to amend the Federal Food, Drug and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, 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. 5401

(Purpose: To provide for a substitute amendment)

Mr. FRIST. Mr. President, Senator KASSEBAUM has a substitute at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mrs. KASSEBAUM, proposes an amendment numbered 5401.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mrs. KASSEBAUM. Mr. President, I wish to thank my colleagues for agreeing to the passage of S. 773, the Animal Drug Availability Act. This legislation is designed to address the severe shortage of new drugs for the treatment of animals. The bill will modernize clinical testing requirements and make them more predictable and will improve the efficiency and timeliness of the Food and Drug Administration's [FDA] review of new animal drug applications, while at the same time ensuring that new animal drugs are safe for animals and humans and are effective.

The Senate's passage of this legislation is a testament to what can be accomplished when the FDA, the regulated industry, and Congress recognize a problem—in this case, the lack of new drugs for treating animals—and work together in good faith to craft and enact creative, reasonable solutions to that problem. Dr. Steve Sundlof, the director of the FDA's Center for Veterinary Medicine, and his staff deserve great credit for their dedication to meaningful animal drug law and regulation reform in this Congress.

I wish especially to thank each of the Members who has cosponsored and worked with me for the passage of this legislation. Without their effort and dedication to seeing this bill through the legislative process, we would not have succeeded in passing this bill today. Our former majority leader, Senator Dole, and Senators LUGAR, PRYOR, PRESSLER, GREGG, GORTON, COATS, JEFFORDS, FRIST, HARKIN, CRAIG, INHOFE, GRASSLEY, MCCONNELL, KYL, SANTORUM, HEFLIN, BOND, KERREY, BENNETT, HELMS, HUTCHISON, LOTT, BUMPERS, MACK, ASHCROFT, COCHRAN, ROTH, WARNER, FORD, KEMPTHORNE, ROBB, NICKLES, STEVENS, ABRAHAM, DASCHLE, GRAMS, CONRAD, BURNS, MOSELEY-BRAUN, DORGAN, BAUCUS, and HATCH each deserve great credit for their active support for this legislation.

I ask unanimous consent a summary of the bill be printed in the RECORD.

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

S. 773, THE ANIMAL DRUG AVAILABILITY ACT—SUMMARY

The Animal Drug Availability Act, S. 773, was introduced on May 5, 1995, by Senator Kassebaum. It was approved by the Senate Committee on Labor and Human Resources on March 28, 1996, as part of S. 1744, the FDA Performance and Accountability Act, and now has a total of 43 bipartisan Senate cosponsors. Subsequently, S. 773 was refined in close collaboration with the Food and Drug Administration (FDA), and the amendment in the nature to S. 773 reflects these refinements.

S. 773 is designed to address the serious lack of drugs for treating animals by modernizing and making more predictable the FDA's requirements for new animal drug testing and improving the efficiency and timeliness of FDA's review of new animal drug applications, without compromising either human or animal safety or product effectiveness.

These reforms include:

1. *Determination of effectiveness:* The legislation would clarify the discretionary authority of the FDA to rely on one adequate and well-controlled investigation for the determination of the effectiveness of an animal drug. The study or studies could, but would no longer automatically be presumed to, require field investigation(s).

2. *Combination drugs:* The legislation clarifies that when an already approved animal drugs are used in combination with one another, the FDA may approve the combination drug as long as none of the drugs in combination exceeds its established tolerance or none of the drugs interferes with the working of another of the drugs.

3. *Collaborative protocol design:* The legislation provides for a collaborative protocol design process. The FDA is required to meet with individuals intending to investigate or investigating new animal drugs to mutually decide on the appropriate protocol for the clinical investigation. If the FDA decides that more than one field investigation will be necessary, the FDA must set forth its scientific justification for that decision.

4. *Drugs for minor uses and species:* The legislation directs the Secretary to propose legislative or regulatory options for facilitating the approval of animal drugs for minor species and minor uses.

5. *Drug tolerance setting:* The legislation clarifies that the FDA may approve animal drugs which will not exceed the tolerance set for that drug, as opposed to requiring the manufacturer to determine an optimal dose for the drug.

6. *Tolerance for unapproved drugs:* The legislation provides the Secretary new authority to set tolerances for new animal drugs that are not approved in the U.S. but are used in animals imported for consumption in this country.

7. *Veterainary feed directive drugs:* The legislation establishes a new category of animal drugs—''veterinary feed directive drugs.'' This is a category of drugs between prescription drugs and over-the-counter drugs. The bill establishes a number of requirements to ensure that these drugs can be tracked and that they are used appropriately.

8. *Feed mill licensing:* The legislation establishes a new requirement for the licensing of feed mills that are manufacturing feeds containing animal drugs to ensure conformity with good manufacturing practices and for other reasons.

Mr. LUGAR. Mr. President, I am pleased that the Animal Drug Availability Act (S. 773) is before the full Senate for consideration today.

As an original cosponsor of this legislation, I recognize the need for reform of the Food and Drug Administration [FDA] animal drug approval process. Producers and manufactures of animal drugs have been concerned with the lengthy time required to gain FDA approval of animal drugs as well as the lack of new drug options available to treat livestock and poultry.

The legislation before us today is a consensus bill that is acceptable to FDA, agricultural procedures, pharmaceutical and animal health organizations and has garnered bipartisan support in the Senate. I had written to Senator KASSEBAUM recently urging prompt action on this legislation and thank her for her efforts to move this bill forward.

The bill before us today will provide FDA with greater flexibility to determine when animal drugs are effective for intended uses; streamline approval of combination animal drugs when the drugs have been previously approved separately for the same species and conditions of use; provide FDA with greater flexibility in whether field investigations are necessary to prove efficacy; and require presubmission conferences to help FDA and drug manufacturers to reach agreement on testing requirements before a drug application is submitted to FDA. In addition, the bill streamlines the drug application licenses for feed mills, permits FDA to set import tolerances for drugs used in other countries, and includes a veterinary feed directive provision which will make new therapeutic animal drugs accessible in feed form.

I urge my colleagues to support this important bill.

Mr. GREGG. Mr. President, I rise today to talk about the demise of one very important piece of legislation—the 1996 FDA reform bill—and what I hope will be the success of another—the animal drug availability reform bill. These bills represent important Republican priorities: American patients and consumers, innovation in medicine and consumer products, and a smaller role for the Federal Government.

Republicans put forth an FDA reform bill, supported in the Labor Committee by three of our Democratic colleagues, that puts the needs of our citizens first. Our goal in developing this legislation was clearly to expedite the bureaucratic review process at the Food and Drug Administration, while still recognizing their role in ensuring the safety of products such as pharmaceuticals, medical devices, and food additives being introduced into domestic and international commerce.

In the Labor Committee, our discussions focused on the reprioritization of Agency resources and attitudes in order to achieve this goal. And while some have characterized these provisions as extreme, I believe that it is important to recognize that a number of provisions in the bill that our chairman, the senior Senator from Kansas [Mrs. KASSEBAUM] assembled simply recodify current law—albeit not current practice—by the FDA.

In addition, this legislation contained a number of incremental improvements to the Food, Drug and Cosmetic Act. While I will freely admit that many of these provisions do not go as far as the changes that I advocate, I recognize the balance that Senator KASSEBAUM was attempting to strike; that is why I voted in favor of this legislation in Committee. I also would like to mention the spirit of the negotiations that I observed Senator KASSEBAUM engaged in with our Democratic colleagues and the administration. I thought her approach to this important issue was eminently fair, balanced, and accommodating.

Mr. President, FDA reform is not a new idea. Like so many of the issues we take on, discussion and debate about FDA reform has been going on for many years. For example, the Edwards Commission was established by charter in 1989 and authorized by then Secretary of Health and Human Service Dr. Louis Sullivan. This task force was formed in response to a growing perception that FDA was in crisis. Serious questions had been raised about the agency's ability to do its job.

After a year of public testimony and study, they published a report in May, 1991—a detailed analysis of the FDA's inner workings. The report concluded that the FDA was an agency in crisis. A large part of the report focused on internal structure, organization and management; the report recommended individual center adopt mission statements and that paper work flow studies be conducted agencywide. As a result of the report, Congress gave FDA substantially more money and staff—but I think that we all now understand that simply providing the FDA more resources does not solve the problems they have at the Agency.

Mr. President, I originally had high hopes for FDA reform this Congress. On March 16, 1995, in a speech at an environmental facility in Virginia announcing phase II of the Reinventing Government initiative, the President even acknowledged that FDA reform was a vital issue. In RE–GO II, the administration issued specific recommendations for the reform of the FDA to be achieved through legislative and regulatory changes. However, I was concerned by the quotation used from the President's rhetoric on the first page of the follow up white paper: ''The Food and Drug Administration has made American drugs and medical devices the envy of the world and in demaind all over the world.''

I believe that it is this sort of perception that has gotten us to the point where we are today: a regulatory system that no longer has clear boundaries or delineated goals, is anticompetitive, and has an attitude that we must function as ''the FDA to the

world.'' Former Commissioner Dr. Charles Edwards put it more appropriately when he said that, ''The mission of the FDA is consumer protection. Unfortunately, the FDA has tended to confuse its mission with the power to promote what it deems to be appropriate personal and professional behavior.'' No matter—the administration's white paper of reforms proved to be more of a red herring than anything else.

The FDA has demonstrated a lack of investment on their part in the private sectors' efforts to bring cutting edge medicine to American patients. Businesses do not engage in activities lightly, especially small business making substantial investments in their own future. The FDA has also indicated an unwillingness to let scientists determine the standard of science, to let doctors freely practice medicine, and to allow patients to be informed about their range of options.

To the FDA, it all seems to be about money. The authorized user fees—or taxes placed on the backs of companies working to provide innovative health care solutions—in the Administration's budget request continue to grow. The Administration also continues to annually request two unauthorized user fees: one would levy a new tax on medical device manufacturers and another would be an important inspection fee. Increasing taxes will not solve the problems that persist at the Food and Drug Administration.

Peter Barton Hutt, former FDA General Counsel, summed this up well in a speech before the Utah International Medical Device Congress in 1993. He stated, ''User fees is a false issue. If we do not change the philosophy of the FDA reviewers about the criteria for approving either Section 510(k) notifications or PMA applications, we can triple the number of people in the FDA and not get one additional application approved.'' It is these sort of changes in philosophy, as well as corrections to the fiscal priorities, that we are seeking at the FDA through our reform efforts. But, unfortunately, Congress cannot legislate attitude.

I also remain unconvinced that new user fees would ever be sunset, even if the application backlog is cleared. I think the discussion we will soon begin in regard to the renegotiation of PDUFA will be revealing on this count. I also have yet to see any proposal that would refund user fees to any company if the product review was not completed within the statutory timeline—this is an agency that wants to function like a business without regard to the rules of business—''Get what you pay for.'' I don't see why businesses should be expected to tolerate this.

In recent years, there also seems to have been a marked shift from product approval to enforcement at FDA. While there is no clear cut cause for this sea change, the intimidation that has resulted from these actions is great. There is, of course, no way to accurately measure the chilling effect this may be having on relevant industries. But this police state mentality has spilled over into the appropriate regulation of product safety.

Companies are terrified that they will be made the victim of a public campaign in the media. The FDA is reputed for its role in propagating widespread fear of retaliation against any company that would cooperate with Congress in its examination of the FDA's mission and regulatory practices. We have found that a number of individuals and companies fear retribution in the form of delayed FDA product reviews and regulatory discrimination if they should criticize the agency. This fear has led to hesitancy on the part of potential witnesses to provide committees with the testimony that they need in order to make an informed judgment on the policies and practices of the agency.

Commissioner Kessler has argued that the industry perceives issues to be something other than what they actually are, such as the Reference List being viewed as a ''black list.'' While we appreciated the assurances made to the Labor Committee by the Commissioner that such fears are unfounded, I have yet to learn what affirmative steps the FDA has taken to reassure those regulated by the agency that they may feel completely comfortable exercising their right to speak freely to the Congress, without threat of retribution or retaliation from the agency. I have to wonder how many stories continue to go untold, how many problems go unexplored, how many questions remain unanswered.

However, Mr. President, I am pleased to note that a couple of FDA-related problems have been resolved this Congress. One dealt with the untenable restrictions placed on U.S. manufacturers regarding their ability to export products approved for use in other countries, but not yet approved for domestic commerce. Working closely with my colleague from Utah, Senator HATCH, we engaged in a lengthy dialog with ranking minority member of the Labor Committee, Mr. KENNEDY. The result was passage of reform of sections 801 and 802 of the Federal Food, Drug and Cosmetic Act, provisions which govern the import and export of FDA-regulated products. Subsequently, these provisions were signed into law, a major victory for U.S. manufacturers who are no longer obligated to build factories and send jobs and investment capital overseas.

A second major issue that was partially resolved dealt with the ridiculously unscientific Delaney Clause. Countless experts and virtually every former Commissioner have stated the fact that a ''zero risk'' standard is not only unscientific, but virtually immeasurable. As analytical examinations have improved, science has been able to detect ever-shrinking amounts of trace chemicals in our food supply—excellent science means that minute, formerly undetectable amounts of pesticides and chemicals can be detected, and even though they pose no threat over a human lifetime, would be banned under the unrealistic Delaney scheme. Fortunately, this Congress had the bipartisan wisdom to institute a realistic, scientifically based standard in place of the Delaney Clause as it related to the regulation of pesticides. Congress recognized that in this day and age ''zero risk'' would come close to meaning ''zero food.'' The Delaney reform signed into law takes us out of the realm of the theory of a health treat, and into a food safety realm that balances health considerations with an abundant, affordable food supply.

And, Mr. President, I am hopeful that we will add this animal drug reform compromise to the list of items we have accomplished this Congress. I understand from my colleague from Kansas that this legislation is the result of a real effort on the part of the FDA, the relevant industry, and her staff. I also understand that the House has taken action on this matter, so there is a realistic chance for these provisions to become law—the type of all that we can all feel good about, a law that balances consumer safety with an appropriate level of Federal regulation.

I also hope that we will have an opportunity to clear the way for one other related measure before Congress adjourns—the biomaterials bill that Senators GORTON, LIEBERMAN, and MCCAIN have been championing for many months. This legislation, which provides reasonable relief to the suppliers of critical raw materials. This relief is necessary to ensure that life-sustaining and life-enhancing devices will remain readily available to American patients.

Mr. President, let me just conclude by saying that the discussion of FDA reform will continue into the next Congress. This is a high priority for many of us, as it is such a high priority for American patients and consumers on a daily basis. We will continue to work hard to define an appropriate role for the Federal Government—for the FDA—in the lives of our citizens.

Mr. HARKIN. Mr. President, I am pleased to that we are today seeing Senate passage of this important legislation. I especially want to thank Senator KASSEBAUM for her efforts in working out the details of this consensus bill and in arranging for its passage as a freestanding measure. I also want to thank Senator KENNEDY for his cooperation and efforts in clearing the bill for passage.

I am proud to be an original cosponsor of the legislation. It has been very gratifying to have been a part of the process of reaching agreement on the provisions of this bill among representatives of the animal drug industry, livestock and poultry producer organizations, consumers and the Food and Drug Administration. In particular, I would like to commend Dr. Stephen Sundlof, Director of the Center for Veterinary Medicine at FDA for his hard

work and cooperation in reaching consensus on this bill. This has been an exemplary effort in reaching a commonsense balance between the need for adequate regulation and the practical realities of livestock and poultry production.

The bill does not in any way weaken the protections for human health contained in current law pertaining to animal drugs. The bill does, however, streamline the animal drug approval process, primarily by removing unnecessary and duplicative testing and investigation requirements found in current law. By reducing unnecessary requirements in the approval process, the approval of new animal drugs will become less costly and time consuming. That is very important, since the livestock and poultry industries are facing a near crisis caused by the lack of approved new drugs. For example, there has been only one new drug approved for use in swine since 1990, and that drug cannot be marketed as a practical matter until this legislation passes.

The bill also contains a much needed resolution of the problems associated with veterinary oversight in dispensing of drugs for use in livestock and poultry feeds.

This legislation is a huge step forward in improving FDA's animal drug approval process and a real victory for livestock and poultry producers, consumers and producers of animal drugs.

Mr. FRIST. Mr. President, I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill appear at this point in the RECORD.

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

The amendment (No. 5401) was agreed to.

The bill (S. 773), as amended, was deemed read for a third time and passed, as follows:

S. 773

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

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''Animal Drug Availability Act of 1996''.

(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 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. EVIDENCE OF EFFECTIVENESS.

(a) ORIGINAL APPLICATIONS.—Paragraph (3) of section 512(d) (21 U.S.C. 360b(d)) is amended to read as follows:

''(3) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as—

''(A) a study in a target species;

''(B) a study in laboratory animals;

''(C) any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant;

''(D) a bioequivalence study; or

''(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.''.

(b) CONFORMING AMENDMENTS.—

(1) Clauses (ii) and (iii) of section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)) are each amended—

(A) by striking ''reports of new clinical or field investigations (other than bioequivalence or residue studies) and,'' and inserting ''substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,''; and

(B) by striking ''essential to'' and inserting ''required for''.

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b(c)(2)(F)(v)) is amended—

(A) by striking ''subparagraph (B)(iv)'' each place it appears and inserting ''clause (iv)'';

(B) by striking ''reports of clinical or field investigations'' and inserting ''substantial evidence of the effectiveness of the drug involved, any studies of animal safety,''; and

(C) by striking ''essential to'' and inserting ''required for''.

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)) , as amended by subsection (a) is amended by adding at the end the following:

''(4) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

''(A) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that—

''(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

''(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

''(B) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

''(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

''(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

''(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i)(I) and (II), paragraph (1)(A), (B), or (D) apply;

''(C) except in the case of a combination that contains a nontopical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

''(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness;

''(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

''(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

''(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

''(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the labeled effectiveness;

''(ii) each of the active ingredients or animal drugs intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population;

''(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

''(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.''.

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

''(3) Any person intending to file an application under paragraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach an agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requestor unless (A) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (B) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each such conference, the Secretary shall provide a written order setting forth a scientific justification specific to the animal

drug and intended uses under consideration if the agreement referred to in the first sentence requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this paragraph shall be construed as compelling the Secretary to require a field investigation.''.

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or a request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term ''adequate and well controlled'', as used in subsection (d)(3) of section 512 of such Act, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions;

(B) further define the term ''substantial evidence'', as defined in subsection (d)(3) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P–0434/CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

Until the regulations required by subparagraph (A) are issued, nothing in the regulations published at 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary of Health and Human Services to require a field investigation under section 512(d)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 US.C. 360b(d)(1)(E)) or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in subparagraph (A).

(f) MINOR SPECIES AND USES.—The Secretary of Health and Human Services shall consider legislative and regulatory options for facilitating the approval under section 512 of the Federal Food, Drug, and Cosmetic Act of animal drugs intended for minor species and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process under such section for animal drugs intended for use in minor species or for minor uses.

SEC. 3. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

''(F) Upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug.''.

SEC. 4. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

''(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under this section if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animal drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applications for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, 'relevant international organization' means the Codex Alimenterius Commission or other international organization deemed appropriate by the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new animal drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance or if scientific evidence shows the tolerance to be unsafe.''.

SEC. 5. VETERINARY FEED DIRECTIVES.

(a) SECTION 503.—Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after ''other than man'' the following: '', other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,''.

(b) SECTION 504.—The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following:

''VETERINARY FEED DIRECTIVE DRUGS

''SEC. 504. (a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to section 512(b) to use under the professional supervision of a licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from section 502(f).

''(2) A veterinary feed directive is lawful if it—

''(A) contains such information as the Secretary may by general regulation or by order require; and

''(B) is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to section 512(i).

''(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution. Such person distributing the feed shall maintain a written acknowledgment from the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgment to its immediate supplier.

''(B) Every person required under subparagraph (A) to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging in such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

''(b) A veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may by general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

''(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be a prescription article under any Federal or State law.''.

(c) CONFORMING AMENDMENT.—Section 512 (21 U.S.C. 360b) is amended in subsection (i) by inserting after ''(including special labeling requirements'' the following: ''and any requirement that an animal feed bearing or containing the new animal drug be limited to use under the professional supervision of a licensed veterinarian''.

(d) SECTION 301(e).—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after ''by section 412'' the following: '', 504,''; and by inserting after ''under section 412,'' the following: ''504,''.

SEC. 6. FEED MILL LICENSES.

(a) SECTION 512(a).—Paragraphs (1) and (2) of section 512(a) (21 U.S.C. 360b(a)) are amended to read as follows:

''(a)(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless —

''(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and

''(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued

under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

''(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for the purposes of section 501(a)(6) unless—

''(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed,

''(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed, and

''(C) such animal feed and its labeling, distribution, holding, and use conform to the conditions and indications of use published pursuant to subsection (i).''.

(b) SECTION 512(m).—Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

''(m)(1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i), and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

''(2) Within 90 days after the filing of an application pursuant to paragraph (1), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall (A) issue an order approving the application if the Secretary then finds that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

''(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

''(A) that the application is incomplete, false, or misleading in any particular;

''(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

''(C) that the facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i), the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) relating to the use of such drugs in or on such animal feed.

''(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

''(i) that the application for such license contains any untrue statement of a material fact; or

''(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in the Secretary's absence the officer acting as the Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

''(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

''(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

''(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

''(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

''(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

''(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection and waives an opportunity for a hearing on the matter.

''(D) Any order under this paragraph shall state the findings upon which it is based.

''(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued—

''(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approved application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (e) or paragraph (4); and

''(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(6) To the extent consistent with the public health, the Secretary may promulgate regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs.''.

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application on the date of the enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

UNANIMOUS–CONSENT AGREEMENT

Mr. FRIST. Mr. President, I ask unanimous consent that the previous order be amended so that the Senate stands in adjournment until 9:30 tomorrow morning and the routine morning requests be deemed agreed to.

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

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in adjournment as under the previous order.

There being no objection, the Senate, at 7:36 p.m., adjourned until Wednesday, September 25, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 24, 1996:

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

UNRESTRICTED LINE OFFICER

To be captain

CHRISTOPHER J. REMSHAK, 000–00–0000