

of employers and employees by the Railway Labor Act."

The apparent contradiction between the legislative intent stated in Section 10501(c)(3)(B) and the conforming Railway Labor Act in Section 322 could be interpreted to alter the legal standards by which companies are determined to be governed, or not governed, by the Railway Labor Act. Therefore, a technical correction is necessary to restore the former Railway Labor Act terminology and thus avoid any inference that is at odds with the clearly stated legislative intent not to alter coverage of companies or their employees under the Railway Labor Act.

We hope that this brief summary of the facts will provide you with information useful in your future deliberations.

Respectfully,

BUD SHUSTER,

*Chairman.*

SUSAN MOLINARI,

*Railroad Subcommittee  
Chairwoman.*

Mr. PRYOR. Mr. President, it is very clear to me that there is, in fact, confusion. But the quickest and best way to eliminate that confusion is to simply support the Hollings amendment, return us to 1995, December, under that particular Act which for 62 years guided and had jurisdiction over "express carriers."

We could go into a long legal argument, and I am sure that legal arguments will be made on the floor of this body as to who is right and who is wrong. The substance of this issue must and should be debated. But now is the time, we think, that we should correct the issue, that we should go back to where we were, that we should once again set the record straight and start from there.

If hearings are needed next year, that is fine. But we should in this legislation support the Hollings amendment to the FAA Authorization and Reform Act.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 10 minutes.

Mr. McCAIN. Mr. President, I believe under the previous unanimous consent agreement I had 10 minutes, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCAIN. Then I seek recognition.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Senator from Arkansas for his support of the Hollings amendment. I pray, because of the importance of this legislation, that we get an agreement and get moving on this. I again thank the Senator from Arkansas for his continued support and his statement in support of very important legislation. I hope, following the vote on the CR, we will take that bill up and get it resolved tonight. I hope.

OMNIBUS CONSOLIDATED  
APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. McCAIN. Mr. President, I applauded the managers of the bill and the leaders for all the hard work and long hours they have put into crafting this bill. The mere size of this bill alone—if we look at it here, 2,000 pages—is testament to the immense amount of work that they have done.

I also, of course, express my special thanks and appreciation to the Senator from Oregon, Senator HATFIELD, who not only this year but every year for the previous 30 years has done such a magnificent job. He will be sorely missed, not only because of his accomplishments, but because the Senator from Oregon has always, invariably, unwaveringly been a gentleman, and his unfailing courtesy to all of us, even if there is significant disagreement, will not only be long remembered but, I am sure, from time to time deeply missed.

There is much in this bill that merits support. The bill funds six Cabinet departments and hundreds of agencies and commissions. We must fund these departments and keep the Government open and operating. That is our duty.

Before I go on, I also want to pay special thanks to Keith Kennedy, who, again, unfailingly has been courteous and considerate to me for many years now. The work he has done will never be fully appreciated except by those of us who have observed the incredible labors which he has had to go through in satisfying some pretty enormous egos, and balancing the very difficult, competing priorities that exist here. I do not know of anyone who has done the job the way that Keith Kennedy has, not only for the State of Oregon, not only for the Appropriations Committee and not only for the Senate, but for the United States of America.

Mr. President, we also have a duty not to waste the people's money. To spend simply for spending's sake is wrong. It is even more egregious to use the taxpayers' money in a manner designed to reap political and electoral gains. Unfortunately, that has occurred here.

It is common knowledge that as the end of the fiscal year approaches and Congress is forced to take up omnibus bills that must be passed, such legislation tends to be a vehicle for every Member's pet project. The term heard most often is that the bill becomes a "Christmas tree." Mr. President, this bill is definitely a Christmas tree, and a glorious one at that.

I note for the RECORD that those on this side of the aisle, while not without blame for much of the pork in the bill, did attempt valiantly to pass the appropriations bills in the normal fashion. Following the proper procedure would have allowed all the provisions of this bill to be examined and scrutinized in the light of day. Many would have been dropped, others amended or

changed. Now, effectively, we do not have those options.

My colleagues on the other side of the aisle have made it so that this situation is very clear. They would offer a constant stream of nongermane, non-relevant amendments to the appropriations bills. These amendments were designed to further a certain agenda. While such action is allowable under the rules, it was unfortunate and has resulted in the situation we now find ourselves.

I intend to vote against this bill. As I just stated, there is much in the bill that is meritorious and should be funded. However, the bill is indeed a Christmas tree, loaded with pork-barrel projects, and nonrelevant, not appropriate authorizing language. I would like to discuss many of the items I found in this bill that caused me consternation.

When a bill contains earmarks that forces the administration to spend money on one specific project, it denies other worthwhile projects the opportunity to receive funding. The following is a partial list of earmarks that I have found in the bill.

On page 16, the bill earmarks \$1,900,000 for supervision of the Brotherhood of teamsters national election. While I do not question the need for Federal involvement in this matter, there is simply no need to specifically earmark and mandate that this spending occur at this exact level.

On page 92, a special trust fund is established with \$60,000,000 deposited in it, for the payment of money to telecommunications carriers for burdens placed upon them due to law enforcement efforts. While I have always opposed unfunded mandates, many do in fact exist and many companies, especially many small businesses are excessively burdened by such unfunded mandates. I am concerned that while these small businessmen and women continue to be burdened, we are establishing a trust fund to pay some of our Nation's largest, most profitable companies.

This issue certainly merits debate, but not in the context of the underlying legislation. There is no pressing need that forces us to take this action at this time. This is an appropriations bill and if the Senate sees fit to establish such a trust fund, we should do so on other legislation.

This bill also contains language regarding Sallie Mae and library services and numerous other authorizing legislation that should not be here.

Mr. President, on page 126 of the bill, the funding for the Advanced Technology Program of the National Institute of Standards and Technology is funded at a level of \$225,000,000. This number is an increase over the funding previously contained in legislation. This program is nothing but a corporate subsidy program. It is clear case of corporate welfare and I must object to the funding level for this program.

On page 182 of the bill \$8,500,000 is earmarked specifically for the University of New Hampshire for construction and related expenses for an environmental technology facility. Mr. President, I have no way of assessing on behalf of my constituents whether this spending is meritorious or not. Further, I have no way of knowing whether other schools or entities that may engage in similar tasks and have similar or even more pressing needs.

Mr. President, numerous earmarks are contained on page 262. Three million is earmarked for the WVHTC Foundations outreach program. There is no explanation what WVATC is. Mr. President, \$7,000,000 is designated for the grant to the Center for Rural Development in Somerset, KY; \$1,000,000 is designated for a grant to Indiana State University for the renovation and equipping of a training facility; and \$500,000 for the Center for Entrepreneurial Opportunity in Greentown, PA.

On page 268, the State Justice Institute is funded at \$6,000,000. This program was zeroed out by the House. I believe that such action taken by the House was entirely appropriate. I had hoped that we would have been able to end this program. However, due to the process in which this bill was crafted, I had no opportunity to seek to eliminate this program.

The conference report also includes a provision that waives ship building loan guarantee procedures intended to protect Federal taxpayers.

Current law requires the Department of Transportation to apply economic soundness criteria before the Federal taxpayer is asked to guarantee any shipbuilding loan under title XI of the Merchant Marine Act.

The purpose of the safeguard, of course, is to ensure that the vessel will be able to successfully compete in the market, so that Federal taxpayers are not left holding the bag for the defaulted loan.

This bill waives the economic soundness criteria for certain shipyards, making it easier to build ships that can't compete in the market. Mr. President, the provision is bad policy and it has absolutely no place in this bill.

To continue, on page 622, there is an earmark for Hot Springs, AR. On page 623, language regarding the Elwha and Glines Dams in the State of Washington is contained in the bill. On page 656 is even more language regarding the Elwha river. And on page 657, is language regarding the University of Utah. Additionally, beginning on page 659 is a series of land transfers in Nevada, New Mexico, and Oregon.

Mr. President, I note all these items not because I am questioning the integrity of the Members that requested them. But I am questioning their need, their merit, and their importance. And, unfortunately, I have no way to divine the answers to any of these questions.

This bill also contains numerous "emergency designations." When

spending is designated an emergency, it does not have to be paid for—in other words, it will result in an increase to the deficit. This bill contains emergency funding to repair the damage done by Hurricane Fran and to pay for important anticrime and antiterrorism legislation.

However, I am very concerned that sometimes we are too quick to declare items emergencies. I see that \$1.6 million is designated emergency spending for the Kennedy Center. The Kennedy Center is indeed a national treasure, but I must seriously question increasing the debt by \$1.6 million for this funding at this time. I am sure we could find appropriate offsets to conduct the work.

When bills are crafted in this manner, there is no end to the discoveries that we might find. For example, I have fought for years to ensure that Department of Defense dollars are not wasted on international sporting events. As we all know due to the horrible terrorist act that occurred in Atlanta, there is an appropriate role for our military and police in ensuring that such events are safe.

But we must ensure that the Department of Defense budget does not become a cash cow to fund every other program. I worked with others last year to develop a manner in which DOD money used for sporting events would only be used for necessary security purposes.

I discovered when reading this bill a provision that establishes an account at DOD to support these events. Any unobligated balances appropriated for the Atlanta Games and any reimbursements received by DOD for the World Cup Games would go into this fund. The fund would then be used to fund DOD involvement in other international sporting competitions.

This account is merely a way to funnel more defense dollars to the organizers of international sporting events. It is wrong and it should not be in this bill.

Mr. President, let me now turn to the fiscal year 1997 Department of Defense Appropriations Act contained in this bill.

My colleagues are all too painfully aware of my strong feelings about wasting scarce defense resources on pork-barrel projects. For many years, I have pointed out the billions and billions of defense dollars wasted on programs and projects that have little or nothing to do with ensuring our national security, but have everything to do with the popularity of their sponsors back in their States and districts.

Sadly, this year is no different from past years. The defense appropriations bill once again represents an egregious display of pork barrelling by Members of both the House and Senate.

The Republican-led Congress has worked hard to increase President Clinton's inadequate defense budget requests, adding a total of nearly \$18 billion in the past 2 years. I fully sup-

ported these increases which have slowed, although not halted, the too-rapid decline in the defense budget over the past decade. Failure to provide adequate funding for defense will seriously hinder the ability of our military services to ensure our future security and will have a deleterious effect on our Nation's ability to influence world events and maintain peace.

I believed that most of my Republican colleagues shared my deep concern about our future security when we added \$18 billion to the defense budget. However, after fighting hard for this additional \$18 billion on the grounds of urgent national security requirements, the Congress failed to curb its traditional tendency to send scarce defense resources on special interest, pork-barrel projects.

On its face, this defense appropriations bill appears to address the serious shortfalls in military modernization funding in the President's defense budget plan. The bill adds a total of \$5.7 billion to the procurement accounts, including tactical aircraft, sea-lift and airlift assets, improved communications systems, surveillance and reconnaissance, and other important warfighting equipment. The bill also adds \$2.7 billion for research and development, to maintain the technological edge of our military forces on the battlefields of the future, including a significant increase in both theater and national missile defense programs.

Unfortunately, a closer look at the bill reveals the same sort of earmarks for special interest programs that have resulted in the waste of so many billions of defense dollars in the past.

There are, of course, the perennial adds, such as: \$780 million for unrequested Guard and Reserve equipment, including more C-130 aircraft; \$15 million for continued aurora borealis research and construction of the High Frequency Active Auroral Research Program [HAARP], for which there is no current military requirement or validated use; \$300 million to be transferred to the Coast Guard; \$27 million for the Justice Department's National Drug Intelligence Center; \$10 million for natural gas vehicles and \$15 million for electric vehicles; \$20 million for optoelectronics consortia; and \$493.6 million for medical research.

Let me take a moment to list some of the earmarks in the medical research area. They include breast cancer, prostate cancer, and ovarian cancer—a new earmark, as well as the usual brown tree snakes, rural health care, freeze-dried blood, and a long list of other special medical programs. Again this year, we see an earmark in the bill for medical research performed by—and I quote—"private sector or non-Federal physicians who have used and will use the antibacterial treatment method based upon the excretion of dead and decaying spherical bacteria." My question is this: if this particular program shows merit in a peer reviewed competition among research

programs, why is it necessary to earmark funds for it? I must assume that the program cannot stand up to examination and, therefore, must be treated specially to ensure its continuation. What a waste.

Mr. President, this litany of pork-barrel projects is all too familiar to my colleagues. But let me take a moment to explore some of the interesting, new items included in this bill: \$14 million for defense conversion activities in San Diego and Monterey, CA; language directing that the Department of Defense forgive the monetary value and forego the return of 5,000 ballistic helmets loaned to the Los Angeles County Sheriffs Department since April 1993; \$1.5 million to electronic rifle targeting systems from the Atlanta Olympics and install them at Fort Benning, GA; a myriad of location-specific earmarks of environmental remediation, restoration, and technology development funds, including Jefferson Proving Ground, Bremerton Shipyard, Hawaii Small Business Development Center, National Defense Center for Environmental Excellence, as well as Fort Polk, McGregor Range, and Fort Bliss; \$13 million for an unnecessary, duplicative, and cumbersome bureaucracy for oceanographic research, which the Navy does not need or want; and \$650,000 for marine biocatalysts for defense and industrial applications, using an organization with tropical marine microorganisms collected from two major geographical regions, one of which is the Pacific Ocean.

Mr. President, this bill also includes more than \$100 million in earmarks for programs which were not in either bill and were never considered by the Senate or the House. These projects just appeared in this conference agreement, often without explanation, and there is nothing any Member can do about it.

Of course, Mr. President, the administration also sought, and achieved, inclusion of a few more provisions in this conference agreement as late as last Friday night. These include another \$100 million for the Dual Use Applications Program, formerly the Technology Reinvestment Project, or TRP, which has been plagued with politization from both Congress and the administration since its inception. In addition, as I mentioned before, the administration sought and achieved the addition of a provision establishing a new account to fund DOD assistance to international sporting events. This fund is entitled to receive not only direct appropriations but any reimbursements due to the Department of Defense for services rendered in the past or the future. This provision was not considered by either House of Congress, but again, there is nothing any one Member can do about either provision now.

Mr. President, it never ceases to amaze me how innovative and creative my colleagues can be in creating and earmarking funds for these pork-barrel projects. Perhaps we should spend as

much time on reducing the deficit and ensuring that our military forces have the right equipment to fight and win in future conflicts.

Mr. President, I have mentioned just a few of the earmarks and add-ons in this bill, and I ask unanimous consent that a more complete list be included in the RECORD at this point.

These pork-barrel projects total more than \$2.4 billion. When added together, pork-barrel spending in the defense bills in just the past 2 years totals more than \$6 billion. That is one-third of the entire increase in the defense budget—an increase for which this Republican Congress fought so hard on the basis of national security.

Mr. President, these projects have little or nothing to do with national security. They are special interest items designed to enhance the reputations of their sponsors back in their States. They are projects which serve the political and economic interests of their sponsors, rather than the security interests of all Americans.

The simple fact is that wasting money on projects like these, which have little or no military relevance, is dangerous. It takes money away from the high-priority requirements of the military services. It is counter-productive to our efforts to ensure that our troops are trained and equipped to successfully perform their missions in any future conflict. Pork-barrelling harms our national security.

The American people are entitled to know how the Congress is spending their tax money. The simple fact is that the American people are sick and tired of congressional pork-barrel politics. By continuing the practice of pork-barrelling with defense dollars, we run the serious risk of further eroding the already low level of support for defense spending among the voters. But we seem unable to change our longstanding tradition of bringing home the bacon.

The American people will not stand for this type of wasteful spending of their tax dollars. If we in Congress refuse to halt the pork-barrelling, it will be more and more difficult to explain to the American people why we need to maintain adequate defense spending. I would prefer that the \$2.8 billion wasted on pork-barrel projects had not been included in the bill. I hope that, next year, with the very real threat of a line-item veto of some of these items, the Congress will stop wasting defense dollars on these kinds of special interest items.

Let me conclude by saying that I believe this is a sad display of the Congress putting its Members' interests ahead of the interests of the majority of the American people. I cannot support this bill.

I am also concerned about provisions in the bill regarding native Americans and gaming. These provisions should have been considered by the Committee on Indian Affairs. This bill is not the appropriate vehicle for this debate.

Mr. President, I also want to express my concern regarding an opposition to section 330 of the general provisions of the Interior and related agencies portions of this omnibus appropriations bill because section 330 would, in a discriminatory fashion, dismantle the rights of one Indian tribe to conduct gaming activities on its lands like all other Indian tribes.

Section 330 is specific to Rhode Island. It would expressly deny to the only federally recognized Indian tribe in Rhode Island, the Narragansett Indian Tribe, the rights other Indian tribes have under the Indian Gaming Regulatory Act.

I will focus most of my remarks on why I think section 330 should be rejected as bad policy. But first, I want to say a few words about why, on procedural grounds alone, I oppose this section on this appropriations bill from my perspective as chairman of the authorizing committee of jurisdiction, the Committee on Indian Affairs.

I have the deepest respect for my colleagues from Rhode Island, Senators CHAFEE and PELL, and for the others who have been involved in shaping section 330. But I must say that section 330 of this appropriations bill is an unfair, end-run around the ongoing work of the authorizing committee.

None of the provisions of section 330 have ever before been part of any bill or introduced or amendment filed in either House or Senate. It is new language added for the first time last week by the House to the omnibus appropriations bill. Section 330 would substantially amend authorizing legislation on an appropriations measure without the benefit of any legislative hearings, without any contribution by the authorizing Committees of jurisdiction, and without any public debate by those most affected—the Narragansett Indian Tribe of Rhode Island.

Let me say that, at the same time, I appreciate the position of Senators CHAFEE and PELL and understand why they have taken it. This issue has been quite troubling to them, to Rhode Island officials, and to the Narragansetts themselves. It stems from an apparent misunderstanding about whether the Congress intended the tribe or the State to have civil jurisdiction over gaming on tribal lands acquired under the Narragansett Land Claims Settlement Act of 1978.

In 1988, Senators CHAFEE and PELL withdrew a floor amendment during consideration of the Indian Gaming Regulatory Act legislation which they had drafted to resolve this issue in favor of the State after they received what they understood to be assurances that jurisdiction over gaming resided exclusively with the State. The meaning of those assurances have been in hot dispute ever since.

This past January, I met with Senators PELL and CHAFEE at their request to review their concerns and discuss what they could do. At that time I made it clear to them that, although I

opposed them on the merits, I would not use my position as chairman of the committee of jurisdiction to block a bill they would introduce to amend the Narragansett Land Claims Settlement Act to gain the clarity they sought against the tribe. Indeed, I told them I would schedule a hearing and allow the bill to move to the Senate floor for consideration. I was surprised to see that they did not take any such action during this entire session. Had they done so, we would have long ago voted on authorizing legislation, with the benefit of a full and fair hearing record.

Now, on the eve of adjournment of the 104th Congress, without the benefit of any hearing or public debate, and without any involvement of the Indian tribe directly affected, the sponsors of section 330 have attached it to an appropriations vehicle. I oppose this effort on these grounds alone, and urge my colleagues to reject it.

On the merits, I oppose any effort to deny to the Narragansetts or any other individual Indian tribe what is protected for all other Indian tribes—the right to conduct governmental gaming activity on their own lands. It is unseemly to single out one Indian tribe for discriminatory treatment in this way.

If Rhode Island finds gaming so offensive, it now has the power to enact a criminal ban on such activity, as have Utah and Hawaii, and thereby preclude under Cabazon and IGRA the Narragansett Tribe from conducting any such gambling activity. Rhode Island now permits some gaming activity within its borders. The U.S. Supreme Court in Cabazon said an Indian tribe may exclusively regulate the conduct of those games not otherwise prohibited under the criminal law of a State.

I have studied the situation in Rhode Island. I fail to see why the proponents of this section 330 feel a need to move it through on the eve of adjournment in this way. The decided trend in the courts has been favoring States over the Indian tribes. The latest decision in Seminole has meant that an Indian tribe has no effective remedy against a State for a State's refusal to negotiate.

I must say I would understand the position of the proponents of section 330 if they were to raise it early next year rather than on the eve of adjournment. For if the Secretary does issue proposed regulations in early 1997 in the way that was referenced in the 11th Circuit Court of Appeals holding in Seminole versus Florida, and if they are written in such a way as to give the tribe something the State does not support, I would understand efforts made at that time by the Senators from Rhode Island to ban gaming on Narragansett Indian lands. I would still oppose them, in principle, but again, I would not block them from having an opportunity to gain the full consideration of the Senate after a fair and full hearing of the authorizing committees of jurisdiction.

Finally, Mr. President, although as of last week this section 330 was op-

posed by the administration, and Interior Secretary Babbitt had warned, in a letter to Senator CHAFEE, that if this language is included in an appropriations bill he would recommend that the President veto the bill, it now appears that section 330 was approved by the administration negotiators. The apparent turnabout of the administration on this issue over the weekend, while not necessarily surprising given this administration's pattern of flipping and flopping from 1 day to the next, is highly unfortunate. I for one cannot and will not support such language.

As chairman of the Committee on Indian Affairs, I oppose section 330 and ask that both my colleagues and the administration never again condone such an assault on one Indian tribe's basic rights and responsibilities. Consideration of such a dramatic change in Federal-Indian policy should be reserved to the deliberate care of the authorizing committees of jurisdiction.

I also strenuously oppose a new provision added late last week to the omnibus appropriations bill that would prohibit any effort to provide direct funding to an Indian tribe of that tribe's share of Bureau of Indian Affairs central office or pooled overhead general administration funds under Tribal Self-Determination or Self-Governance contracts, grants, or funding agreements.

The new language appears in the unnumbered "administrative provisions" section at the end of the funding provisions for the Bureau of Indian Affairs—page 640 of the House-passed bill. The language added is as follows:

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provision of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103-413).

Mr. President, I object to this language for two reasons. First, this restrictive provision surfaced for the first time over the weekend. It has not been part of any authorizing or appropriations committee bill language this year.

Second, in 1994 the Congress expressly directed, in Public Law 103-413, that these BIA central office and general administrative funds be available for negotiation into direct funding of tribal shares to all tribes asking for these funds. The new provision added during the weekend would expressly override Public Law 103-413.

I have always supported every fair and reasonable effort to shift more of appropriated funds into direct, block-grant type transfers to Indian tribes. For this reason we have steadily opened up more and more of the BIA's funding sources to tribal Self-Determination and Self-Governance negotiations, in order to allow those Indian tribes choosing to do so to receive these funds directly and administer

them according to tribal priorities. Shifting funds in this way to Indian tribes is a very effective way of reorganizing more and more on the BIA. One last bastion of bureaucratic power is the BIA central office and the general administration or pooled overhead accounts maintained by the BIA. Despite Public Law 103-413, the administration has refused to transfer to Indian tribes the funds appropriated for these central office accounts on the basis that the Committees on Appropriations have objected. Now, on the eve of regulations being issued that will fully implement Public Law 103-413, the Committees on Appropriations have included express language nullifying the relevant provisions of Public Law 103-413. I object to this process and oppose the outcome.

The Committee on Indian Affairs actively addressed the issue of BIA reorganization during the 104th Congress. Early in 1996 we reported a comprehensive BIA reorganization bill, S. 814, but further consideration by the full Senate of S. 814 was precluded until last month when Senator GORTON removed a hold he had placed on the bill.

In the course of our discussions on his objections to S. 814, Senator GORTON suggested we find some areas of common agreement as an interim step that would increase the proportion of Federal funding that is placed under the direct and flexible control of tribal governments. Our efforts were partially reflected in a section 118 which Senator GORTON added to the Interior appropriations bill in committee, describing it as a "work in progress." Unfortunately, our progress in developing language to provide Indian tribes with direct and flexible control of a larger share of Federal funding ground to a halt over several fundamental differences in approach.

In our discussions concerning section 118, I maintained my firm belief that any such language must preserve an Indian tribe's choice to administer some or all of the funds appropriated for its benefit, consistent with the time-tested policies under the Indian Self-Determination Act. I insisted that section 188 should be drafted in such a way as to allow an Indian tribe to decide to take over the operation of some or all programs. For example, a tribe may in its sovereign authority choose not to take over law enforcement operations, or some other particularly problematic area. Instead of some or all, Senator GORTON insisted that section 188 authority be for all or nothing, that a tribe choosing not to do everything would be precluded from doing some things. Another issue that divided us involved some oversight language I felt was overly broad and sought to replace with a requirement that applied to Indian tribes the financial accountability requirements of the Indian Self-Determination Act, as amended. Whether or not education and transportation funds administered by the BIA should have

been excluded from the formula negotiations remained another area of disagreement. Given these important differences, Indian tribes across the country asked that section 118, in its incomplete form, be removed.

I appreciate the fact that Senator GORTON agreed to remove section 118. I want to make something very clear—Senator GORTON and I have agreed that the BIA is in dire need of dramatic reorganization. He and I also have agreed that a preferred approach is to expand opportunities for tribal self-determination and tribal self-governance. And so I am glad that he agreed to lift the annual limit on the number of tribes who can be added to the 63 compacts now serving 210 of the total of 557 tribes. This amendment will permit 50 additional tribes to be added to the Self-Governance Program each year.

However, I am profoundly disturbed by the fact that, without negotiation or discussion, the Committee on Appropriations added a new provision over the weekend to completely insulate nearly 100 million dollars' worth of BIA centralized bureaucracy from any transfer of funds and associated authority to Indian tribes.

Appropriations staff say the administration asked for this provision. Well, this provision was not in the President's budget request. It was not in the official administration testimony provided to the Committee on Indian Affairs during our consideration of S. 814, the BIA reorganization bill. This provision is in direct contravention of provisions of existing law in Public law 104-413, and I oppose it.

I strenuously oppose this end-of-the-session effort to protect the BIA bureaucracy from the tribal direct-funding initiatives that are now in existing law and I ask my colleagues to join me in opposing this provision.

Mr. President, in closing, again, I want to thank the managers of the bill for all their work. It does not go unappreciated. I only wish I could support what they crafted, but for the reasons I have just explained, I cannot.

Mr. President, sooner or later we are going to stop this. We are going to stop this kind of spending, and we can do it by passing appropriations bills one at a time with proper scrutiny and amending. But, also, we can understand that our national defense and national security deserves far better.

Mr. President, I ask unanimous consent that a list of items designated as "Emergency" be printed in the RECORD.

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

ITEMS DESIGNATED AS "EMERGENCY" IN OMNIBUS BILL  
(Dollars in millions unless otherwise noted)

Dollars	Item	Page
3.6m	Office of Intelligence Policy and Review	2
20m	Attorney General Terrorism	4
1m	Executive Office of Immigration	6
1.719m	Criminal Division Terrorism	12
10.9m	Terrorism and Security	16
115.6m	FBI terrorism	35

ITEMS DESIGNATED AS "EMERGENCY" IN OMNIBUS BILL—Continued

(Dollars in millions unless otherwise noted)

Dollars	Item	Page
60m	Telecomm Carrier Compliance Fund	37
5m	Domestic and foreign DEA	41
15m	Aliens with ties to terrorism	47
17m	Firefighting terrorism	59
3.9m	Nonproliferation of illegal exports of chem	108
10m	Workload from terrorism	161
23.7m	Counterterrorism overseas	182
24.8m	Security improvement overseas terrorism	188
1.375m	Security—terrorism	211
25m	Hurricane relief—EDA	295
22m	Hurricane relief SBA	295
3.5m	Firefighting on public lands	729
100m	Wildland Fire Management	729
2.5m	Oregon and CA Grant Lands	729
2.1m	Resource Management	730
15.8m	Construction	730
2.3m	Operation of National Park System	730
9.3m	Construction—hurricanes/terrorism	730
1.1m	Surveys, Investigations and Research	731
6.0m	Operation of Indian Programs	731
6m	Construction—floods	731
3.4m	National Forest System—hurricanes	732
550m	Wildland Fire Management (repayment)	732
5.2m	Reconstruction and Construction—hurricane	732
935,000	Smithsonian—Salaries and Expenses	733
1.6m	Kennedy Center—Operation and Main	733
3.4m	Kennedy Center—construction	733
382,000	National Gallery Art—terrorism	733
1m	Holocaust Memorial Council—terrorism	734
288,000	Foreign Assets Control	170N
34,000	Salaries Inspector General	170N
15m	Counterterrorism Fund	170O
1.35m	Federal Law Enforcement and Training	170O
2.7m	Acquisition, Construction	170O
449,000	Financial Management Service	170P
66.4m	Construction and Expansion of canine train	171
62.3m	U.S. Customs air carriers, airports	171
10.4m	IRS processing, assistance	172
3m	Secret Service	172
210,000	OPM—salaries and expenses	172A
112.9m	Drug interdiction	172B
63m	Watershed and flood prevention	Title V
25m	Emergency Conservation—hurricane	Title V
57.9m	FAA security activities	Chapter 5
147.7m	Facilities and Equipment	Chapter 5
21m	Research, Engineering and Development	Chapter 5
82m	Emergency Relief—hurricane	Chapter 5
6m	NTSB—salaries	Chapter 5
1m	NTSB—emergency	Chapter 5
3m	Research and Special Programs	Chapter 5

\$1.757 billion in emergency designation.

Mr. MCCAIN. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I yield myself 10 minutes on this side.

The PRESIDING OFFICER. The Senator is recognized.

Mr. LAUTENBERG. Mr. President, the legislation before us includes a provision that I authored that will prohibit anyone convicted of a crime involving domestic violence from possessing firearms. I want to take a few minutes of the Senate's time to reflect on just what that means.

We are today about to perform a great and moral act that a human being can perform—one of the best. We are about to save the life of another person. Today, we are going to save the life of the ordinary American woman, a woman who loves her kids, a woman who loves her family. Today, this ordinary American woman is married to someone who is generally a decent, law-abiding guy, but with one exception. Sometimes when things get rough and the stresses of life build, he loses his temper because his emotions get the best of him. He loses control, flies into a rage and then strikes out violently at those closest to him.

Once he beat his wife brutally and was prosecuted, but like most wife

beaters, he pleaded down to a misdemeanor and got away with a slap on the wrist.

Mr. President, next year, this fellow is going to lose his cool at work, or with the boys, and he is going to go home one day and get into another argument with his wife. As arguments often do, it will escalate, and this time, as before, it will get out of control. As their children huddle in fear, the anger will get physical, and almost without knowing what he is doing, with one hand he will strike his wife and with the other hand he will reach for the gun he keeps in his drawer. In an instant their world will change. And this woman, this loving mother, this ordinary American, will die or be severely wounded.

Later, maybe the husband will go to prison. The children will be left parentless, and the effects of the tragedy will ripple for years throughout their lives and throughout the lives of so many others.

Except, Mr. President, because of what we are about to do, this story is going to have a different ending.

Yes, the husband may lose his cool at work and, yes, maybe they will get into the same argument; yes, his rage will fly out of control; and yes, it will probably lead to violence. But when this man's hand reaches into that drawer, there will not be a gun there. So that fatal instant, that moment of fleeting madness, will never happen.

In the end, that ordinary American woman, that loving mother, will end up being bruised, maybe she will end up unconscious in the hospital. But when the next day comes, hopefully, she will awaken, she will see the morning Sun through her swollen eyes, and, if lucky, she will leave the hospital and get on with her life, a life to see that frightened child grow up and go to school. She will live to see him graduate, find a job, and create his own family. That will happen because—and only because—we are about to save her life this day.

Mr. President, over the years there will be thousands of women like this, each one with a family of loved ones, each one with their own dreams. And there will be children. And they will all live, Mr. President. They will all live because of what we do here this day.

Mr. President, you and I will never know the women and children whose lives we are about to save. They will never have a chance to thank us. They will never know that their lives were spared.

But for the rest of our lives, you and I and other Senators, we will have the privilege of knowing that we have lived up to the very highest of our own ideals. We have done nothing less than reach forward into time, put our hands around tragedy and death and remolded it back into life itself. We have done that many, many times, over and over and over again.

Mr. President, this tremendous victory for the forces of life would not

have happened but for the hard work and dedication of many people. I want to express my deep appreciation to all of those who played a role.

In particular, I want to thank President Clinton, Leon Panetta, many dedicated men and women in the Clinton administration.

A moment ago, we saw the distinguished chairman of the Appropriations Committee, Senator MARK HATFIELD, on the floor. I want to thank him. He was solidly behind our effort.

The commitment of the people I just mentioned to this cause was absolutely essential to getting this done. I am grateful to the President for that support.

I also want to thank our distinguished Democratic leader, Senator DASCHLE. He supported me in this effort from the beginning, from way back in the beginning of the year. His efforts in the final hours were of great help. I very much appreciate his commitment to the victims of domestic abuse and for his friendship, notwithstanding my repeated phone calls to him to discuss this legislation.

I also want to publicly thank those who work in my office and in the Senate and many others here in Washington and around the country who have helped make this possible. Over 30 national organizations got behind this effort. Many, many people made significant contributions.

I particularly am appreciative of Sarah Brady and Handgun Control for raising this issue at the Democratic convention and giving it the public attention that it required and deserved.

I want to thank the American Bar Association, whose public statement on a weaker alternative version was critical in persuading my colleagues not to try to water down the proposal. Also, the Coalition to Stop Gun Violence, who took the initiative to build support among a wide variety of other organizations, and the Violence Policy Center, the National Coalition Against Domestic Violence, the National Network Against Domestic Violence, all of whom helped sound the trumpet about this legislation.

Many other groups also played important roles.

Mr. President, for the historical record, I would like to take the opportunity to discuss some of the history behind the domestic violence gun ban, and the changes in the legislative language that are incorporated into the final agreement.

Mr. President, I originally introduced the domestic violence gun ban as S. 1632 on March 21 of this year. After extensive negotiations with the Republican leadership, including Senator LOTT, Senator CRAIG, and Senator HUTCHISON, the proposal was then modified slightly and incorporated into an antistalking bill by a voice vote. Unfortunately, the House failed to act on the antistalking bill. I then offered the modified version of the legislation as an amendment to the fiscal year 1997

Treasury, Postal Service and general Government appropriations bill, and the amendment was approved by a vote of 97 to 2. However, Senator LOTT pulled the Treasury, Postal bill from the floor, and a version of that legislation has now been incorporated into this omnibus spending bill.

The language in the final agreement was worked out early Saturday morning, September 28, through further negotiations with the Republican leadership. Initially, opponents of my legislation had proposed to gut the legislation, primarily by inserting three major loopholes. First, they proposed to exclude child abusers from the ban, by limiting its application only to crimes against intimate partners. This outrageous proposal was withdrawn once it was held up to public scrutiny.

Second, opponents of the gun ban proposed to limit the ban only to offenders who had been notified of the ban when they originally were charged. This effectively would have exempted all currently convicted offenders from the ban. It also would have meant that most offenders in the future would escape the ban, since there was no requirement that they actually be notified. In effect, gun ban opponents wanted to say that ignorance of the law would be an excuse for wife beaters, even though it is not an excuse for anybody else. Eventually, this proposal, too, was dropped.

The third major loophole proposed by gun ban opponents was to limit the ban only to offenders who had been entitled to a jury trial. This would have rendered the ban close to meaningless, as the vast majority of these cases are heard before a judge, in a bench trial.

Those who proposed this new loophole eventually agreed to drop it entirely. Therefore, the ban will apply to all wife beaters and all child abusers, regardless of whether they were convicted in a trial heard by a judge or a jury.

Mr. President, after agreeing to drop the jury trial requirement, opponents of a strong gun ban continued to express concern that gun rights should not be lost without an assurance that offenders will be provided with all appropriate due process protections. To reassure them on this point, we agreed to include in the final agreement a provision that has no real substantive effect, but that may help to assure some people that nobody will lose their ability to possess a gun because of a flawed trial. This provision, in essence, states that the ban will not apply to someone who was wrongly denied the right to a jury trial. More specifically, the language protects from the ban anyone who had been entitled to a jury trial, but who did not receive such a jury trial, or who did not knowingly and intelligently waive his right to a jury trial.

Of course, Mr. President, if an offender was wrongly denied the right to a jury trial, he was not legally convicted. And so this language really

does not change anything. But, again, as it provided needed reassurance to some, I agreed to it in order to facilitate the final agreement.

I do want to make very clear, however, that this language should not be interpreted to indirectly include any requirement of notice for a waiver to be considered to have been made knowingly and intelligently. That is, one can plead guilty or otherwise effectively waive one's constitutional right to a jury trial, and in considering the validity of such a waiver it is irrelevant whether the individual knew that a conviction will lead to a firearm ban. Although that should be clear from the face of the statute, given opponents' efforts to seek a notice requirement, I wanted to state this definitively for the record. This point was made very explicitly in the negotiations, and was agreed to by all sides.

Mr. President, the final agreement does include some minor changes to the Senate-passed version that actually strengthen the ban slightly. Let me review some of them now.

First, the revised language includes a new definition of the crimes for which the gun ban will be imposed. Under the original version, these were defined as crimes of violence against certain individuals, essentially family members. Some argued that the term crime of violence was too broad, and could be interpreted to include an act such as cutting up a credit card with a pair of scissors. Although this concern seemed far-fetched to me, I did agree to a new definition of covered crimes that is more precise, and probably broader.

Under the final agreement, the ban applies to crimes that have, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon. This is an improvement over the earlier version, which did not explicitly include within the ban crimes involving an attempt to use force, or the threatened use of a weapon, if such an attempt or threat did not also involve actual physical violence. In my view, anyone who attempts or threatens violence against a loved one has demonstrated that he or she poses an unacceptable risk, and should be prohibited from possessing firearms.

Mr. President, another new provision in the final agreement clarifies that a conviction will not lead to a firearm disability if the conviction has been expunged or set aside, or is for an offense for which the person has been pardoned or has had civil rights restored. This language mirrors similar language in current law that applies to those convicted of felonies.

I would note that the language on civil rights restoration, as it has been applied in the past, and as it should be interpreted in the future, refers only to major civil rights, such as the right to vote, to hold public office, and to serve on a jury. Loss of these rights generally does not flow from a misdemeanor conviction, and so this language is probably irrelevant to most, if

not all, of those offenders covered because of the new ban. But I want to make it clear that the restoration of any firearm rights under state law would not amount to a civil rights restoration for these purposes. In fact, any such State law effectively would be preempted by this language, and so could not have any legal effect.

Mr. President, I now want to take a moment to briefly discuss the implementation of this new law.

Mr. President, the final agreement does not merely make it against the law for someone convicted of a misdemeanor crime of domestic violence from possessing firearms. It also incorporates this new category of offenders into the Brady law, which provides for a waiting period for handgun purchases. Under the Brady law, local law enforcement authorities are required to make reasonable efforts to ensure that those who are seeking to purchase a handgun are not prohibited under Federal law from doing so.

Mr. President, convictions for domestic violence-related crimes often are for crimes, such as assault, that are not explicitly identified as related to domestic violence. Therefore, it will not always be possible for law enforcement authorities to determine from the face of someone's criminal record whether a particular misdemeanor conviction involves domestic violence, as defined in the new law.

Mr. President, I would strongly urge law enforcement authorities to thoroughly investigate misdemeanor convictions on an applicant's criminal record to ensure that none involves domestic violence, before allowing the sale of a handgun. After all, for many battered women and abused children, whether their abuser gets access to a gun will be nothing short of a matter of life and death. I am hopeful that law enforcement officials always will keep that in mind as they implement this requirement.

Having said this, Mr. President, I recognize that there are limits to the ability of many law enforcement agencies to conduct in depth investigations of large numbers of applicants for handgun purchases. The law requires that these agencies make a reasonable effort to investigate applicants. What is a reasonable effort depends upon the local law enforcement officials' available time, resources, access to records, and their own law enforcement priorities.

In my view, the reasonable effort requirement should not be interpreted so broadly that it would substantially interfere with the ability of a law enforcement agency to carry out its central mission of apprehending criminals and protecting the public from crime. At the same time, it should not be interpreted so narrowly that it would allow law enforcement agencies to routinely ignore misdemeanor convictions for violent crimes, without further exploration into whether these crimes involved domestic violence. So

long as an agency makes a reasonable effort to do so, the requirements of the law would be met. However, again, I would strongly urge law enforcement officials to make this a top priority.

Finally, Mr. President, I want to acknowledge some of the many people who have played a role in moving this legislation forward.

As I noted earlier, I am especially grateful to President Clinton for his strong support of this initiative, which was absolutely essential to its enactment.

I also want to again thank many of the organizations and people who have supported the effort. In addition to those I mentioned earlier, these include the American Academy of Pediatrics; Children's Defense Fund; Consumer Federation of America; Family Violence Prevention Fund; the National Center on Women and Family Law; the Center for Women Policy Studies; American Ethical Union; Church of the Brethren; American Friends Service Committee; Friends Committee on National Legislation; Lutheran Office for Governmental Affairs; American Public Health Association; American Jewish Committee; AYUDA; Church Women United; Congress of National Black Churches; Evangelical Lutheran Church in America; YWCA of the USA; United Methodist Church, General Board of Church and Society; Peace Action, National Clearinghouse for the Defense of Battered Women, National Urban League; NOW; National Council of Jewish Women; Pennsylvania Coalition Against Domestic Violence; Physicians for Social Responsibility; Presbyterian Church USA; Union of American Hebrew Congregations; Unitarian Universalists Association; United Church of Christ; and Justice for Kids.

In conclusion, Mr. President, I believe that this legislation will save the lives of many battered wives and abused children. And it will send a message that, as a nation, we are determined to take the problem of domestic violence seriously.

Mr. President, getting this legislation enacted has been a long and very difficult struggle. We had to overcome intense opposition from one of the most powerful special interests in American politics. We have overcome one roadblock after the next, and there have been several times when I did not think we would make it.

But throughout it all, the supporters of this bill have always kept in mind that we were fighting for literally a matter of life and death. That knowledge has helped sustain us and make us that much more determined as we have worked our way through the legislative minefield.

So, in the end, we have a glorious victory, a victory for America's frightened, battered women, a victory for our abused children, a victory of life over death.

I am honored and humbled to have been able to play a part in this legisla-

tion. We hope that the enforcement of the law will be as rigid as the law very simply defines it. If you beat your wife, if you beat your child, if you abuse your family and you are convicted, even of a misdemeanor, you have no right to possess a gun. That is the way it ought to be. Lord willing, it will be. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 4 minutes and Senator HELMS be permitted to speak for 4 minutes.

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

Mr. DOMENICI. I may not use all of my time.

Mr. President, first, I want to say this is not a pretty bill. There are plenty of reasons to be against it. But there are far more reasons to be for it, not the least of which is the fact that this bill will close out the appropriations for the year and the Government of the United States will continue to operate for the next 12 months.

Having said that, I think there are a couple of people we should thank: First of all, the chairman of the full committee, Senator MARK HATFIELD, for his hard work, long hours, and diligent insistence on getting this done. To our distinguished majority leader, who, in a short time as leader, has understood these processes better than most of us who have been here a long time. Indeed, he did what most of us thought was the right thing to do, and he got right in the middle of it and got this job done. My compliments go out to him.

Mr. President, I have commented here on the floor and included an amendment heretofore in the foreign operations appropriations bill with reference to the drugs that are coming across the southwest border. I have not been very congenial with the Mexican Government because I believe they are not doing everything they can to prosecute the drug kingpins residing in Mexico. I think these kingpins are going to bring Mexico's Government to a standstill in the very near future.

So, to make sure that the United States is doing its share with respect to the southwest border, where 70 percent of the cocaine comes into America—it does not come other ways, it comes right across the land of Texas, New Mexico, Arizona, and California—many of us said we better do as much as we can to make sure that the border is as well protected as possible.

I want to say to the U.S. Senate and to the people of this country that we have done that in this bill. There is total funding in this bill for the U.S. attorneys of \$987 million, including a setaside of \$4.6 million to prosecute cases on this southwest border where there is an enormous overload because of this drug trafficking.

There is over \$1 billion for the Drug Enforcement Agency, an increase of

\$200 million over last year. This includes a southwest border initiative which provide the following: \$9 million for cooperative efforts with the FBI to penetrate command and control communications of Mexican drug traffickers; \$8 million and 50 agents to investigate leads obtained from new wiretap authority to be used against drug dealers on the border; over \$2 million to focus on methamphetamine trafficking; and \$4 million for classified intelligence research; \$11 million for 130 new special DEA staff and field office needs to support the mobile enforcement teams on that border. The DEA funding also includes \$55 million to expand the DEA's current supply reduction efforts and restore funding for international drug control Program to the same level as it was in 1992. It has been reduced since then, and it is now back to that 1992 level. Mr. President, this bill also includes \$2.1 billion for the INS, including \$121 million for 1,000 new Border Patrol agents, \$27 million for equipment, including infrared scopes and sensors to track and intercept drug smugglers, and \$12 million for 150 new land border inspectors.

I believe this is an excellent commitment on the part of the U.S. Government, and when signed into law it will do as much as we can to control drugs on the border.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, when Hurricane Fran swept across North Carolina on September 5, it left a path of unprecedented destruction; thousands of citizens lost their homes, their cars, their farms, or their businesses. The cost of the damage exceeds \$5 billion, making that the most devastating disaster in North Carolina's history.

I am delighted that after weeks of negotiations, North Carolina will receive a total of \$1.8 billion in disaster aid. This much needed assistance will assist farmers, homeowners, and small businessmen in getting back on their feet.

From the outset, we worked closely with the North Carolina delegation and with Gov. James B. Hunt in developing a package to provide adequate funds for disaster relief. We made clear that in light of the enormous damage to North Carolina, we would seek a total of \$2 billion. Last week, we secured \$1.3 billion for FEMA for funds to provide emergency assistance, temporary housing, and debris removal.

Mr. President, the pending legislation allocates an additional \$500 million for various programs that provide needed services. For example, the Department of Agriculture is authorized to provide emergency loans to farmers, the Army Corps of Engineers can perform debris removal, dredging, and beach renourishment, and the Small Business Administration can help out with low-cost loans.

I am deeply grateful to Senate Majority Leader TRENT LOTT, Assistant Majority Leader DON NICKLES, and the

chairman of the Senate Appropriations Committee, MARK HATFIELD, the ranking member, Senator ROBERT C. BYRD, and others, for standing firm and helping preserve the \$1.8 billion total.

In the process, President Clinton proposed in effect to cut North Carolina's request by \$434 million. It was reported that the President sought an increase of \$225 million of the U.S. taxpayers' money to be given to the United Nations and the State Department while cutting the disaster aid to North Carolina.

In the end, we worked with Senators LOTT, NICKLES, BYRD, HATFIELD, and others to ensure that sufficient funds would be allocated for disaster relief irrespective of any request for funds filed by the White House.

North Carolinians have unfailingly supported other States where disasters have struck. So we are thankful that other states have now supported our efforts to secure adequate funds for North Carolina in its effort to recover from disaster.

The road to recovery will be a long one, but I hope that these Federal disaster funds will make the process a bit easier for our citizens who have suffered so much.

Mr. STEVENS. Mr. President, I ask unanimous consent for 4 minutes.

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

Mr. STEVENS. Mr. President, the bill before the Senate contains the conference agreement reached by the Defense Appropriations Subcommittee with the House on the bill H.R. 3610, the Fiscal Year 1997 Department of Defense Appropriations Act. I am proud of this bill, and urge all Members to support the conference report.

We initially reported this bill to the Senate on June 21, 1996. We passed the bill in July, and intended to proceed to conference. Sadly, the House chairman, BILL YOUNG, was temporarily out of action due to heart surgery. I am pleased to report that Chairman YOUNG's vigorous and determined leadership this past month testified to his complete recovery from the problems that caused his brief absence in July.

Despite this delay, we completed our work on Thursday, September 12, and expected the bill to come back before Congress the following week. Intervention by the White House resulted in the delay that brings the defense bill before the Senate today, as part of this omnibus appropriations package. Happily, the content of the bill remains as set by the conferees earlier this month.

The conference report provides a total of \$243.946 billion in new budget authority for the Department of Defense for 1997. That total is \$950 million less than the level passed by the Senate, and \$1.3 billion less than the House passed bill.

Compared to the President's budget, the bill provides \$9.268 billion more than he sought for 1997. But when compared to the 1996 level, including all the supplementals for Bosnia and other

overseas contingencies, this bill is effectively a freeze at the 1996 level. In my view, the amounts provided in this bill are the bare minimum that can be provided for our national defense.

This conference report remains true to the priorities set by the Senate in its version of the bill. We have fully funded the pay raise for military personnel, and added funds above the President's request for housing, barracks, and health care. This conference report truly enhances the quality of life for military personnel, their families, and retirees. That is our obligation and duty, and we have discharged that responsibility in this bill.

The increases in the bill compared to the President's budget are spread among all titles. Personnel spending is increased by \$233.7 million. Operation and maintenance spending is increased by \$701 million. Procurement spending is increased by \$5.7 billion, but remains \$253 million less than the amount provided by Congress for 1996. Research and development accounts are increased by \$2.7 billion, an increase of \$951 over the level provided for 1996.

The increase for R&D addresses the commitment of this Republican majority Congress to put us on the path to a meaningful ballistic missile defense program. I especially note the increase of \$325 million for national missile defense, including funds for the Air Force Minuteman II based national missile defense concept. We must accelerate to the maximum extent technology will permit work on a real national missile defense system. The funds in this conference report keep us on that path.

Additionally, we provide \$137 million for breast cancer research in the conference report, and \$45 million to establish a new prostate cancer research initiative through DOD. I want to note Chairman HATFIELD's leadership in expanding the funding in the bill to fight prostate cancer.

I want to close by thanking my friend from Hawaii, Senator INOUE, for his commitment to getting this bill through, and working to achieve a true bi-partisan consensus. Additionally, it was a great pleasure to work once again with the House subcommittee, led by Chairman BILL YOUNG, and the ranking member, JACK MURTHA.

This conference report is a compromise. We sought to accommodate the concerns of the Joint Chiefs, our colleagues, and the Secretary to the maximum extent possible. I ask all my colleagues understanding where we were not able to fully fund their concerns—we started this conference with a difference of \$16 billion between the two bills. I believe the bill reflects a fair settlement between the House and Senate positions, and I urge adoption of the conference report by the Senate.

FISCAL YEAR 1997 DEPARTMENT OF DEFENSE  
CONFERENCE REPORT

Mr. LOTT. If I could get the attention of the distinguished chairman of the Defense Subcommittee, I would

like to discuss a matter of great importance to our National Guard and Reserve forces.

Mr. STEVENS. I am happy to engage in a discussion with the distinguished majority leader in any matter dealing with enhancements of our Reserve component forces.

Mr. LOTT. As the chairman is well aware, the primary antitank missile system deployed by Reserve component forces is the 1970's vintage Dragon missile. While the Active forces are just now beginning the initial procurement and deployment of the vastly superior Javelin missile system, the Dragon will remain the mainstay in the Reserve components' inventory well past the turn of the century. Being that this is the case, the National Guard Bureau has identified the need to develop safety and capability improvements to the Dragon system to make National Guard units more compatible with Active component forces. As I have been briefed, this will be a two part process.

The first issue the National Guard Bureau wishes to address is safety modifications to the Dragon missile. A majority of the on-hand inventory has a safety flaw that has been identified and for which a solution has already been developed. In fact, the Marine Corps has already contracted to have their Dragon assets modified to resolve this safety shortfall. There is an urgent need to apply this modification to the Army's missile inventory.

Mr. STEVENS. The majority leader is well informed about this critical safety shortfall in the Dragon missile system and because of his leadership on this issue, the Senate-passed Defense appropriations bill included \$4.9 million to complete safety modification on the entire inventory of National Guard Dragon missiles. I am also pleased to inform the leader that because of his interest and support, the conference report before the Senate today includes the full amount proposed in the Senate bill for the safety modifications.

Mr. LOTT. I am very pleased the Senate was able to prevail on this critical safety enhancement for our Reserve component forces and that these funds are included in this conference report. I would, however, like to also point out that there is a capability shortfall identified by the National Guard that also need to be addressed by this body.

With the knowledge that the Dragon missile may remain in the Reserve components' inventory for as much as 10 more years, I believe it is imperative that the National Guard Bureau look at all possible modifications that can improve the range and lethality of the Dragon system. My staff and I have been briefed on a modification known as the Super Dragon that can potentially improve the current generation Dragon's capability to 95 percent of the Javelin missile system. The modification will significantly increase the Dragon's range, minimize its launch signature, double its speed, and give the Dragon missile the capability to

defeat all known modern armor threats. Much of the development work has already been completed and with a modest investment of an additional \$25 million, development, pre-production engineering and system qualification work can be completed in less than 16 months.

Mr. STEVENS. I am happy to inform my distinguished colleague from Mississippi that this conference report includes explicit directions to the Secretary of the Army to submit a report to the congressional defense committees, no later than April 1, 1997, detailing the requirement, cost, and schedule for the various Dragon upgrade options under consideration. Further, the conference report also includes \$100 million of miscellaneous procurement funds under the direct control of the Chief of the Army National Guard, a portion of which, could be used for the Dragon development effort. If the report from the Secretary of the Army is supportive of the Dragon modification, I would expect the Chief of the National Guard Bureau to give immediate consideration to using miscellaneous procurement funds under his control to proceed with this development effort.

Mr. LOTT. I would like to thank the distinguished chairman for his support in this conference report for Dragon missile system improvements and look forward to the Secretary of the Army's report on this important issue to our National Guard forces.

ENVIRONMENTAL RESTORATION DATABASE  
FUNDING

Mr. SPECTOR. Mr. President, I would like to discuss with the distinguished chairman of the Defense Appropriations Subcommittee an important provision in the Defense Department appropriations conference report. In particular, I would like to confirm my understanding that the Department of the Air Force is expected to provide initial start-up funds in the amount of \$72,000 for the establishment of a comprehensive database which incorporates data from current and future environmental investigations at the former Olmsted Air Force Base, to be located at Pennsylvania State University at Harrisburg, PA.

Mr. STEVENS. Mr. President, as the senior Senator from Pennsylvania knows, the conference report provides \$123,000 over 5 years for establishing and maintaining the database, which is necessary for safety and hazard mitigation after the site is delisted from the national priority list of Superfund sites. I understand that the initial start-up costs are a disproportionate amount of the total \$123,000 and would occur that the Department should provide at least \$72,000 in fiscal year 1997.

Mr. SPECTOR. I thank my good friend, the chairman, and again express my appreciation for his effort on the Olmsted AFB cleanup issue.

FEDERALLY FUNDED RESEARCH AND  
DEVELOPMENT CENTERS

Mr. GREGG. Mr. President, I would like to engage my colleague and chair-

man on the Defense Appropriations Subcommittee about the conference report's treatment of Defense's federally funded research and development centers, or FFRDC's.

These institutions are unique in their capabilities to provide the Defense Department (DOD) with specialized scientific, engineering, and analytical knowledge important to national security.

I am very proud that New England is the home of two of the premiere defense FFRDC's: the Lincoln Laboratory operated by the Massachusetts Institute of Technology, and the Mitre Corporation. Lincoln Lab is sponsored by the Air Force, and Mitre is sponsored by the Office of the Secretary of Defense.

I want to discuss an issue affecting the Lincoln Laboratory. Lincoln Laboratory has been a leader in the fields of ballistic missile defense, communications, space and surface surveillance, and advanced electronics.

For the benefit of our colleagues, and as guidance to the Defense Department, would the chairman be willing to elaborate on the conferees, action regarding defense FFRDC's?

Mr. STEVENS. I would be happy to highlight our action. In past years, the annual Defense Department appropriations acts have included a statutory ceiling on the total amount of funds which might be allocated by the Department for its 10 FFRDC's.

In response to DOD's request that it be allowed to manage overall FFRDC resources through staff years of technical effort instead of dollars, the conference agreement for fiscal year 1997 includes such a statutory limit.

The Department is required to control its staff years to maintain total FFRDC spending at the fiscal year 1996 level, but the conferees did agree that limits on staff years were a more appropriate management mechanism for fiscal year 1997. This was a reasonable compromise which tries to address DOD's concerns while at the same time not obscuring the budgetary impacts of funding FFRDC's, which has been a concern to the Defense Subcommittee.

Mr. GREGG. As the chairman knows, the use of a statutory dollar limitation during fiscal year 1996 inadvertently perturbed the funds made available to Lincoln Laboratory to acquire industry support for major development or demonstration activities. Would the chairman comment on this situation?

Mr. STEVENS. The problem faced by Lincoln Laboratory for fiscal year 1996 was caused not by the statutory dollar ceiling but by the Defense Department. DOD chose—unwisely in my view—to assign a lower priority to the lab's allocation and a higher priority to funding the studies and analyses FFRDC's. I disagreed with that decision. I wrote to the Department and urged it to assign a much higher priority to the Lincoln Laboratory programs. The Department chose to do otherwise, and I regret its choice.

Mr. GREGG. Does the distinguished chairman believe that the conference agreement now before us eliminates this dilemma for Lincoln Laboratory for fiscal year 1997?

Mr. STEVENS. I certainly do. The limitation on staff years specifically does not apply to the funds needed by Lincoln Lab to acquire industry support for major system development or demonstrations. It is the conferees, understanding that these funds are used to contract with industry and are not used to expand staff years of technical effort at the laboratory.

Mr. GREGG. I thank the chairman for this clarification.

UNDERGRADUATE FLIGHT OFFICER TRAINING T-39N AIRCRAFT PROCUREMENT

Mr. BOND. Mr. President, I would like to engage my friend and distinguished chairman of the Defense Appropriations Subcommittee in a brief colloquy regarding section 8110 of the Defense Appropriations conference report now before the Senate.

Section 8110 governs the procurement by the Navy of T-39N aircraft to conduct undergraduate flight officer training. These aircraft currently are provided to the Navy under a services contract. The Navy needs to acquire these aircraft expeditiously in order to avoid a break in training, and procurement of the T-39N aircraft under the conditions outlined in this section is in the best interests of the Navy and of the taxpayers.

In this regard, I understand that some in the Navy need clarification about the conditions regarding this procurement contained in section 137 of the National Defense Authorization Act for Fiscal Year 1996 and in Section 124 of the National Defense Authorization Act for Fiscal Year 1997.

I would like to provide this clarification by discussing the matter with the Defense Subcommittee chairman. Would the distinguished chairman agree with me that section 8110 states clearly that the procurement of these T-39N aircraft should go forward "notwithstanding any other provision of law"?

Mr. STEVENS. I agree with my friend from Missouri.

Mr. BOND. Would the chairman also agree that these words were included to waive expressly any other statutory language regarding this issue, including sections 137 and 124 of the respective authorization acts? Would the chairman also agree that the conferees agreed that procurement of these T-39N aircraft for undergraduate flight officer training is important for our national security and should occur without further delay?

Mr. STEVENS. I agree with my colleagues on both statements.

Mr. BOND. Would the chairman agree further that the inclusion of this phrase should remove any doubt in any quarters about which aircraft should be procured and under what conditions they should be procured?

Mr. STEVENS. My colleague is correct. That was the objective of the conferees in including this language.

Mr. BOND. I thank my friend for his clarifying remarks.

ATTENTION DEFICIT DISORDER

Mr. KOHL. I would like to take a moment to discuss language included in the statement of the managers to the fiscal year 1997 Defense appropriations bill conference report relating to attention deficit disorder.

First, I want to thank the managers, the distinguished chairman of the Defense Appropriations Subcommittee, the Senator from Alaska [Mr. STEVENS] and the distinguished ranking member, the Senator from Hawaii [Mr. INOUE] for their sensitivity in recognizing the importance of this issue. I also want to thank the Senator from Minnesota [Mr. GRAMS] for his work on this issue.

Attention Deficit Disorder [ADD] and Attention Deficit Hyperactivity Disorder [ADHD], are neurobiological disorders characterized by inattention, impulsivity, and hyperactivity. In the past it was believed that these were disorders that primarily affected children. More recently, however, experts have concluded that this is not true. As many as 40 percent of children with ADD or ADHD have functionally impairing symptoms which continue into adult life. This is especially true of young males.

As the managers noted, in some cases these disorders can make successful service difficult without some accommodations, especially for those who require the moderating influence of certain prescription pharmaceuticals, the use of which is prohibited by military regulations. It is important to note, however, that many individuals with ADD and ADHD serve successfully in the military and it is not our intention to bar or discourage individuals with ADD and ADHD from military service.

Mr. GRAMS: I want to second the comments of my colleague, the senior Senator from Wisconsin, and I, too, want to thank the distinguished senior Senators from Alaska and Hawaii for their work in ensuring that the conferees addressed the issue of attention deficit disorder and attention deficit hyperactivity disorder in the military before they completed action on the fiscal year 1997 Defense budget.

Unfortunately, it came to our attention that the services had no programs in place to educate key personnel about how to recognize and treat ADD/ADHD. We became aware of this deficiency through tragic circumstances. A constituent, Thomas Swenson of Marshfield, WI, had a son who was murdered while serving in the Navy. Aaron Swenson had ADHD. As Senator KOHL noted, in its severest form, this disorder can create a dramatic level of impulsivity, restlessness, and difficulty modulating responses to given situations. Aaron Swenson's parents believe that his ADHD—which he concealed at the time of his recruitment—made it difficult, if not impossible, for him to

serve 6 years in the Navy's electronics school at the Great Lakes Naval Training Center. Further, they believe that Aaron's ADHD played a role in putting him in harm's way.

There is widespread public awareness of ADD/ADHD. Yet, after his many meetings with Navy officials—some of them very senior officials—Thomas Swenson concluded that the services have little knowledge of ADD. He subsequently met with both of us and urged us to do something to educate the services about the prevalence of ADD/ADHD among young adults, particularly as these disorders relate to potential recruits.

Thus, it is our hope that this language encourages the military services to do all they can to recognize, treat, and humanely deal with recruits and service members with ADD and ADHD.

Mr. STEVENS. I appreciate the work of the Senators from Wisconsin and Minnesota on this issue. As my colleagues are aware, the Defense Department has informed me that it has a familiarization program to help training instructors and health care professionals recognize and evaluate recruits with attention deficit disorder and attention deficit hyperactivity disorder at basic training bases. The conferees have encouraged the Department of Defense to continue this familiarization program so that personnel who deal with potential recruits and service members beyond basic training are able to recognize the characteristics and markers of these disorders.

Mr. KOHL. I welcome the comments of the senior Senator from Alaska. I understand that since we first approached the Defense Subcommittee about this issue that the Defense Department has agreed to meet with a prominent national organization, Children and Adults with Attention Deficit Disorders [CHADD] to discuss these issues further. I am glad that the Department of Defense is drawing on the expertise of organizations and national experts who already have extensive knowledge about ADD and ADHD. I encourage the services to do all they can to address the needs and ensure the success of persons with ADD and ADHD in the services.

COMBATING ILLEGAL IMMIGRATION: AN OPPORTUNITY TO MAKE A DIFFERENCE

Mr. KYL. Mr. President, today, we will pass legislation we hope will significantly reduce illegal immigration in this country.

We could have passed this bill in the Senate last week. Unfortunately, partisan politics almost derailed efforts of the Congress, and particularly the efforts of the chairman of the Immigration Subcommittee, ALAN SIMPSON, who, under extraordinary circumstances, has worked long and hard to produce a bipartisan, far-reaching immigration bill.

That is because, in the end, the Clinton administration threatened to veto either the omnibus appropriations

bill—and shut down the Federal Government—or a stand-alone immigration bill unless some of our reforms were deleted from title 5 of the immigration conference report. It is interesting that the immigration conference report, with title 5 intact, passed the House last week with bipartisan support by a vote of 305-123. Notwithstanding this strong support, in order to ensure passage of this historic immigration measure, important provisions of title 5 have been deleted.

One of the most important provisions dropped from title 5 would have required that sponsors who bring their immigrant relatives into the United States earn 200 percent of poverty in order to bring in extended relatives or 140 percent of poverty when they sponsor their spouses or their minor children. Revised title 5 changed the income requirement for all sponsors to 125 percent of poverty. At that income level, the sponsor could already be participating in several welfare-related programs, including, but not limited to, food stamps, reduced school lunch, Medicaid for pregnant women and children under the age of 6, and the Women, Infants, and Children [WIC] program. In other words, the sponsors may well not be capable of supporting the immigrants they sponsor.

Another provision that was removed from title 5 would have clarified the definition of "public charge." Under the House-passed conference report, an immigrant could be deported—but would not necessarily be deported—if he or she received Federal public benefits for an aggregate of 12 months over a period of 7 years. That provision was dropped during Saturday's negotiations.

The House-passed conference report would have required that public housing authorities verify the status of individuals who obtain public housing benefits. Individuals would have had 3 months to verify their status with a public housing authority or they would be required to vacate the unit. Revised title 5 will give an illegal alien 18 months to vacate the housing unit. In addition, revised title 5 will now give discretionary authority to public housing authorities to determine whether or not they will verify if someone in this country has a legal right to federally-assisted housing. This doesn't make sense to me since, in my home State of Arizona, officials of the Maricopa County Housing Authority alone estimate that 40 percent of the people receiving housing assistance in the county are illegal aliens. In Maricopa County, there are 1,334 section 8 units and 917 units available. There are over 6,500 individuals on the waiting list there.

There are other provisions in title 5 that shouldn't have been dropped from the immigration conference report. It is my hope that in the future, partisan politics will play a smaller role than it did on Saturday in efforts to effectively reform our Nation's immigration laws.

Having said that, I do believe it would be a great disservice to the people of Arizona and the rest of the Nation if this illegal immigration conference report were not to pass the Congress during the 104th Congress.

In Arizona's Tucson sector alone, the U.S. Border Patrol has apprehended more than 300,000 illegal aliens this year. It is estimated that for every illegal immigrant arrested, four slip through undetected. These undetected entrants are costing Arizonans millions of dollars. In fact, the State of Arizona estimates that it spends over \$200 million each year on the medical care, education, and incarceration of undocumented immigrants. That's about equal to what the State spends each year to run Arizona State University.

With this immigration bill, we have the opportunity to lift this financial burden off the States by forcing the Federal Government to take responsibility for reducing illegal immigration, and to reimburse States for many of the illegal immigration-related costs they incur.

Perhaps most importantly for Arizona, under the immigration conference report, our borders will be better secured. One of my amendments to the bill will increase the number of border patrol agents by 5,000 over 5 years, nearly doubling the current number of agents. An increased border patrol presence in Arizona will help cities and towns such as Nogales, Naco, and Douglas, which have experienced surges in illegal immigration and border-related crime.

The immigration bill will also require that the security features on the border-crossing card be improved to counter fraud. There will be new monetary and civil penalties for illegal entry. In addition, every illegal immigration apprehended will be fingerprinted. Preinspection at foreign airports of passenger bound for the U.S. will be increased. The bill creates a mandatory, expedited removal process for aliens arriving without proper documentation, except if they have a credible fear of persecution in their home countries. Penalties for alien smugglers will be increased and deportation of criminal aliens will be expedited.

In addition to beefing up our borders, the bill cracks down on those individuals who overstay their visas. Half of those who temporarily enter the country legally remain here illegally. The bill requires that an entry-exit control system be developed to track those individuals. Visas overstayers will also be ineligible to return to the U.S. for a number of years, depending on how long they overstayed their visas.

The immigration bill also provides for mandatory detention of most deportable, criminal aliens and requires that those aliens be deported within 90 days. The bill also authorize \$150 million for the costs of detaining and removing deportable or inadmissible

aliens and increases the number of detention spaces to 9,000 by the end of 1997.

Finally, this immigration bill will remove many of the incentives for illegal entry. The Immigration and Naturalization Service estimates that 10 percent of the workforce in Arizona is made up of illegal aliens. H.R. 2202 sets up three pilot projects, to be implemented in high illegal immigration States, that will determine the employment eligibility of workers and thereby reduce the number of illegal aliens trying to get U.S. jobs.

While I may well vote against the omnibus bill to which this legislation is attached and while I am very disappointed about the last minute changes to the immigration part of the bill, I nevertheless believe that part of the omnibus bill should be passed. I am confident that this legislation is the keystone we will build upon in the future.

HCFA

Mr. BOND. Mr. President, as we consider funding for the Health Care Financing Administration [HCFA], I would like to commend the conferees for including a reference in the Statement of Managers of the Conference to a demonstration program that will demonstrate and evaluate the best approaches for a community health care center to provide services through a health care network.

We are well aware of the tumultuous changes occurring in the health care field as managed care becomes more and more predominant. For those who are involved in the services of community health centers, whether as providers or patients, the uncertainty of the current health care landscape can be overwhelming. As health care networks are formed, community health centers can either participate in this phenomenon or risk being excluded from the networks. Exclusion is tantamount to severely limiting the patient's medical options, which is a repudiation of the centers' mission and mandate to serve the less advantaged among us.

One community health center in particular, with which I am familiar, is Swope Parkway Health Center in Kansas City, MO. Swope Parkway was founded in 1969 and serves about 35,000 patients each year as a federally qualified community health center. Its approach to health care is uniquely comprehensive, combining medical and behavioral health and social services, housing and economic development. Swope Parkway has decided to assure its patient continued quality health coverage by forming a health maintenance organization [HMO] and developing its own network of providers.

It is my understanding that Swope Parkway is one of the first—but in all likelihood not the last—federally qualified community health centers in the Nation to assume full risk and has formed a new HMO. Given the Federal funding that has been dedicated over the years to community health centers, it would seem logical in this time

of transition to managed care to demonstrate various approaches for community health centers to determine and deliver the most cost-effective way to provide services and maintain the quality of care to low-income patients in urban settings.

Mr. President, I am pleased that the conferees are recommending that HCFA conduct such a demonstration as part of its Research, Demonstration, and Evaluation Program, and I strongly urge them to consider Swope Parkway Health Center as the site for this demonstration.

RYAN WHITE CARE ACT

Mr. LAUTENBERG. I would like to engage the chairman and ranking member of the Labor-HHS Subcommittee in a brief colloquy concerning pediatric AIDS demonstrations funded under title IV of the Ryan White CARE Act.

Mr. SPECTER. I would be pleased to engage in a colloquy.

Mr. HARKIN. I, too, would be pleased to engage in a colloquy with the Senator from New Jersey.

Mr. LAUTENBERG. I would first like to commend and thank the chairman and the ranking member for their work to ensure our Nation's continued strong commitment to our children and families tragically infected with HIV by providing a funding increase for title IV of the Ryan White CARE Act. Title IV programs are designed to coordinate health care and assure that it is focused on families' needs and based in their communities. These programs are the providers of care to the majority of children, youth, and families with HIV/AIDS in our country, ensuring these families have access to the comprehensive array of services they need.

The original Senate report stated that a portion of the title IV funds should be used to provide peer-based training and technical assistance through national organizations that collaborate with projects to ensure development of innovative models of family centered and youth centered care; advanced provider training for pediatric, adolescent, and family HIV providers; coordination with research programs, and other technical assistance activities. Is it correct that the managers intend to continue support of national organizations providing training and technical assistance, including the National Pediatric and Family HIV Resource Center located within the University of Medicine and Dentistry of New Jersey in this legislation?

Mr. SPECTER. Yes, the Senator from New Jersey is correct. The committee intends that a majority of title IV funds be awarded to existing comprehensive HIV care projects. Title IV also supports national training and technical assistance centers that include: The National Pediatric and Family HIV Resource, the AIDS Policy Center for Children, Youth and Families, and the Institute for Family-Centered Care, all of which will be eligible

to apply for funding in the coming fiscal year.

Mr. HARKIN. I concur with the chairman.

LAUTENBERG. I thank the chairman and ranking member for their support, and for their continued work in this very important component of our national HIV/AIDS strategy.

DOJ SECTION

Mrs. MURRAY. Mr. Chairman, this bill provides many tools with which we, as a nation, can fight crime and drugs. I would like to highlight one area about which many law enforcement officials of my home State of Washington have expressed growing concern: methamphetamines. The Department of Justice, working with other agencies, has developed a comprehensive approach to battling the use and manufacture of methamphetamines entitled "National Methamphetamine Strategy", April 1996. Mr. Chairman, I would like to highlight the managers' support for interagency and Federal, State, and local law enforcement cooperation in combating this growing menace. It is particularly important to involve the Environmental Protection Agency and other appropriate agencies to provide technical and financial assistance to State and local law enforcement as they remove hazardous chemicals and waste developed in clandestine methamphetamine laboratories.

Mr. HATFIELD. I agree, Senator MURRAY. We need a united front to reduce methamphetamine use and eradicate clandestine manufacturing facilities. The managers support a comprehensive, interagency strategy in which the Federal agencies work in partnership with State and local law enforcement to solve this problem.

Mrs. MURRAY. Thank you, Mr. Chairman. I look forward to working as a member of the Appropriations Committee—unfortunately, without you—next year to ensure a comprehensive approach is fully funded.

Mr. HOLLINGS. I want to thank Senator Murray for reminding us of the importance of combining resources and expertise to address not only methamphetamines, but all narcotics. Senator MURRAY has been and continues to be a leader in protecting and providing for children, families, and communities. In this bill, we have supported several programs that will assist us in reducing the threats posed by methamphetamines. Specifically, the Drug Enforcement Agency's budget has been increased by 23 percent from last year. The subcommittee looks forward to working with you on the fiscal year 1998 budget.

Mr. HOLLINGS. Mr. President, I note in the report on H.R. 3814 that our committee urged the Economic Development Administration [EDA] to consider applications for grant funding for several worthwhile economic development proposals throughout the country. These were not specifically repeated, however, in this Omnibus Appropriations conference report.

Mr. HATFIELD. That is correct. The committee listed nine such proposals on page 58 of the report.

Mr. HOLLINGS. I would like to make the Senator from Oregon, the chairman of the committee, aware of a particularly meritorious economic development project from my home State of South Carolina that was not listed in the report. The proposal calls for the renovation of the Main Street theatre in Conway, SC Located in the town's historic downtown district, the theater has the potential to become a center for theatrical and economic activity.

I ask the Senator from Oregon if, in his opinion, the Conway project is similar to those listed in our committee report.

Mr. HATFIELD. It is, and it certainly appears to meet the same criteria for inclusion in the report.

Mr. HOLLINGS. That being the case, I ask the Senator that we deem the Conway project part of the committee's recommendation to the EDA.

Mr. HATFIELD. As the Senator knows, we cannot amend the report or statement of managers at this point, however, I speak for this side of the aisle in requesting that the EDA evaluate the Conway project in the same manner along with those listed in the report. Like the committee recommended projects, the Conway proposal should be given every consideration by the Economic Development Administration.

Mr. HOLLINGS. I agree, and thank the Chairman.

ASSISTANCE FOR VICTIMS OF HURRICANE FRAN

Mr. HELMS. Mr. President, in light of the estimated \$5 billion in damage to homes, businesses and farms in North Carolina, it is imperative that critical Federal disaster relief efforts not be delayed, and I am deeply grateful to the distinguished chairman, Mr. HATFIELD, and the equally distinguished ranking member Mr. BYRD of the Appropriations Committee for their fine help in allocating adequate funds in this bill for disaster relief.

A tremendous amount of time was spent last week in working out the details of the disaster relief package. Needless to say, I was concerned about the prospect of disaster relief funds running out.

After extensive consultations last week, a total of nearly \$400 million in new funds was provided for various programs to provide assistance to citizens affected by Hurricane Fran.

It is my understanding that existing unobligated funds are also available for programs within the Departments of Agriculture and Commerce, as well as FEMA and the Army Corps of Engineers, and I respectfully inquire of the chairman and the ranking member of the Appropriations Committee if they agree that more than \$150 million in existing unobligated funds from these programs will be available for disaster relief for North Carolina victims of Hurricane Fran?

Mr. BYRD. I thank the Senator from North Carolina in bringing the Senate's attention to the plight of many Americans who have suffered from the fury of Hurricane Fran. I might remind Senators that this terrible storm swept over much of the eastern United States, including my own State of West Virginia, leaving a path of destruction to homes, businesses, and most tragically, injury and loss of life.

I am aware that the Senator from North Carolina has made a request to the Senate Committee on Appropriations for levels of assistance similar to and, in some cases, exceeding those submitted to Congress by the President. The agreement contained in the continuing resolution includes emergency supplemental appropriations of nearly \$400 million in new budget authority for agencies of the Department of Agriculture, the U.S. Army Corps of Engineers, the Economic Development Administration, and the Small Business Administration to respond to the unmet needs for hurricane relief.

During negotiations with the administration, an agreement was reached to make available an additional \$150 million in Federal assistance for relief from fiscal year 1996 unobligated funds. These amounts include \$100 million provided by the Federal Emergency Management Agency to the Crops of Engineers. In addition, there are funds remaining at the Department of Agriculture for debris removal, utility repair, and emergency loans to farmers and ranchers. In all, this brings the level of funds available for victims of Hurricane Fran to more than \$500 million which achieves the level included in the request by the Senator from North Carolina.

Mr. HELMS. I thank the Senator from West Virginia. Is this the same understanding of the Senator from Oregon, the chairman of the Senate Appropriations Committee?

Mr. HATFIELD. Yes, this is my understanding.

Mr. HELMS. I thank the Senators from West Virginia and Oregon for this explanation. In addition to these funding levels, have any other actions been taken to eliminate obstacles that may affect the availability of assistance to North Carolinians?

Mr. BYRD. The Senator from North Carolina may be referring to a restriction of assistance to landowners requesting assistance from the Department of Agriculture for debris removal. Normally, landowners are ineligible for this assistance if their lands had received debris removal assistance in 2 of the previous 25 years. I have personally made an inquiry with the Department of Agriculture relating to this restriction as it affects victims of Hurricane Fran. I am glad to report that earlier this month, the Department of Agriculture has taken administrative action to recognize the extraordinary damage caused by Hurricane Fran and provide conditional waivers to my State of West Virginia, along with the States of Virginia and North Carolina.

The announcement by the Department of Agriculture states in part:

Based on the uncommon severity and extent of damage caused by Hurricane Fran, the provisions prohibiting eligibility of land damaged 3 or more times (including the current disaster) in the last 25 years is waived in counties designated as disaster areas by the President or Secretary.

Mr. HELMS. Again, I thank the Senators from West Virginia and Oregon for making clear the agreement relating to assistance for victims of Hurricane Fran in my State and other States.

PRINTING ERROR

Mr. SHELBY. Mr. President, I will not take much time of the Senate, because time is short. There is no doubt that questions will arise with regard to this bill. Questions will arise regarding intent. I want to take this time to ensure that a printing error in the Treasury portion of the bill does not cause any confusion. The manager's statement regarding the Internal Revenue Service Tax Modernization System [TSM] Request For Proposal [RFP] addressed on page H12010 of Saturday's RECORD uses two dates: July 31, 1997 and July 31, 1999. July 31, 1997 is the date.

Mr. President there may be other errors, but I have not found them. The Government Printing Office has done an exceptional job in producing a lengthy and complex document in a very short time.

FCC RELOCATION

Mr. INHOFE. Mr. President, I would like to enter into a brief colloquy with the distinguished chairman of the Treasury, Postal Service Appropriations Subcommittee, Senator SHELBY, concerning funding for the proposed relocation of the Federal Communications Commission [FCC]. Mr. Chairman, the Senate version of the fiscal year 1997 Treasury, Postal appropriations bill contained a provision that would allow the Administrator of the General Services Administration [GSA] to pay a portion of the costs associated with a proposed relocation of the FCC. Is this correct?

Mr. SHELBY. The Senator is correct. At the request of GSA this provision was included in the committee report accompanying the fiscal year 1997 Treasury, Postal appropriations bill. During floor consideration of the bill, this provision was converted to statutory language.

Mr. INHOFE. It is my understand that this provision has been deleted from the omnibus bill before us today.

Mr. SHELBY. That is correct. Several members have raised objections to this provision for a variety of reasons, and as a result, we have specifically not included it in this omnibus bill.

Mr. INHOFE. I thank the Chairman. I have recently become aware of the large costs associated with this proposal—more than \$40 million in upfront moving costs and an expensive lease rate—and I think the Congress should give this issue a much more

careful review before it proceeds any further. As I understand it, the proposal calls for the FCC to nearly double the amount of space it occupies at the very time Congress is considering legislation to reduce the size of the agency. Am I correct, Mr. Chairman, that by specifically deleting the language allowing the GSA Administrator to pay for the relocation of the FCC, that is intended that the GSA Administrator specifically not be authorized to provide any funding for the proposed FCC relocation?

Mr. SHELBY. That is correct. The GSA should not use funds appropriated to it to facilitate the move. Since the Commerce Appropriations Subcommittee denied requested funding for the relocation, the proposed move should not go forward until Congress has more closely examined the proposal. I would like to work with the gentleman from Oklahoma and the relevant Senate committees to fully understand whether the proposed relocations are justified and if so, how we might go about reducing costs associated with the plan. We should take a close look at these issues in the next Congress. Until we've had the time to closely examine these issues, however, I do not believe the proposed relocation should go forward. Accordingly, we did not include language allowing GSA to fund the proposed move and they should not use any of the resources provided to them for that purpose.

Mr. INHOFE. I thank the Chairman and I look forward to working with him in the next Congress on this issue.

AIRCRAFT MAINTENANCE TAX COLLOQUY

Mr. NICKLES. Mr. President, I rise to bring to my colleagues' attention a new and hidden tax being imposed by the IRS on American air carriers, and those who travel or ship cargo by aircraft. Ignoring congressional intent, as codified in sections 162 and 232 of the Internal Revenue Code, the IRS is reversing its policy of accepting the longstanding industry practice of expense deductions of aircraft inspection, maintenance, and repair required by the Federal Aviation Administration.

This IRS change in tax treatment of air carriers constitutes a tax penalty on air safety.

This new and hidden tax penalty on air safety is no small matter. When an airline takes delivery of an aircraft, before the FAA will issue a certificate of airworthiness allowing that plane to fly, the carrier must provide the FAA with a suitable plan for ongoing maintenance and repair.

So here, on one hand, we have one agency of the Federal Government, the FAA, working hand in hand with the industry to ensure and to enhance the public safety for air travelers. But at the same time, a second agency, the IRS, is attempting to impose a tax penalty on the cost of ensuring that very safety.

Mr. FORD. May I inquire of my colleague from Oklahoma, who has told us that the IRS is changing its policy and

thereby imposing a tax penalty on airline safety. How is that possible? How can the IRS put this tax penalty on aircraft safety?

Mr. NICKLES. I will inform my distinguished colleague from Kentucky that he is exactly correct. Section 162 of the Internal Revenue Code provides that the cost of maintenance and repairs to keep property in an ordinarily efficient operating condition is deductible in the year incurred. Only maintenance which either materially adds to the value or substantially prolongs the useful life of the property or adapts the property to a new or different use is required to be capitalized. Under this test, aircraft maintenance and repair costs are deductible because such maintenance and repair does not materially increase the value or extend the useful life of the aircraft.

I will answer the distinguished bill manager. Ignoring economic reality and logic, the IRS is reversing its policy of accepting the longstanding industry practice of deducting the cost of aircraft maintenance in the year incurred. The IRS's new position that these repairs should be capitalized and depreciated over a period of years assumes that the economic life of an asset should be calculated on the assumption that no appropriate maintenance—including Government-mandated safety maintenance—will be performed.

Mr. FORD. I would add to my colleague from Oklahoma's remarks that the IRS position defies common sense. Requiring airlines to capitalize the cost of inspection and repairs in compliance with FAA safety regulations that merely maintain the normal operating condition and useful life of the aircraft would be like requiring a taxicab company to capitalize the cost of oil changes on its cabs because an oil change extends the useful life of the engine.

It simply does not make any sense. The U.S. airline industry has the best safety record in the world. As the ranking member of the Subcommittee on Aviation, I know first hand how hard this body and other Federal agencies have worked to encourage and help maintain and improve that enviable safety record.

It seems to me, that the IRS is working at cross purposes with its sister agencies and the Congress.

Mr. NICKLES. I agree with my colleague. However, I would not put it quite so delicately. I believe that the IRS is clearly overstepping its authority and ignoring clear congressional direction and intent as provided by the Internal Revenue Code. This tax penalty on aircraft safety is not only wrong in substance, the process by which the IRS is adopting this new policy is also flawed. In reversing its historic practice of accepting the characterization of aircraft maintenance and repair cost as deductible, the IRS is effectively promulgating a major regulation. As I understand it, there has been

no notice of proposed rulemaking and there is at this time no coordinated issue paper. Instead, the IRS is challenging taxpayers who can least afford to protect their interest against the IRS in court. In other words, the IRS is selectively enforcing this new rule on a case-by-case basis hoping to develop a new body of regulation, without affording taxpayers of the protections provided by the normal rulemaking process.

If the IRS wants to change their policy and the industry practice, the IRS should use the rulemaking process. A change in IRS's policy of this magnitude clearly needs to be addressed through full notice and comment protections provided in the Administrative Procedures Act. The IRS's current process denies stakeholders the opportunity to comment before the tax change is finalized. In addition, I would like to send a clear message to the IRS that general application of this reversal of longstanding tax policy on aircraft maintenance costs would be a rule for purposes of the Congressional Review Act. IRS must be prepared to defend both their decision and their decisionmaking process before this body under the new congressional review provisions of chapter 8 of title 5, United States Code.

Mr. THOMAS. Can the chairman of the Senate Appropriations Subcommittee on the Treasury Postal Service tell me why the Thomas amendment, which passed the Senate by a bipartisan vote of 59 to 39, is not included in this omnibus appropriations bill? As you know, my amendment would have prohibited OMB from expending funds to implement any policy that permits any Federal agency to provide commercial goods and services to other government agencies, unless a cost comparison determines that government agency performance is more cost effective than the private sector.

Mr. SHELBY. The conferees believe existing law, particularly the Economy Act and the Intergovernmental Cooperation Act, address this issue.

Mr. THOMAS. However, hearings by the Senate Committee on Governmental Affairs and House Committee on Small Business have demonstrated that administration implementation of these statutes have failed to eliminate Government competition with the private sector and recent OMB action has been interpreted as encouraging agencies to market their services to other Federal, State and local government entities. Does the chairman of the Senate Governmental Affairs Committee agree with this conclusion?

Mr. STEVENS. That is correct. My committee held a hearing on September 24, 1996, and found questionable use and minimal cost analysis of interagency agreements. I was a cosponsor of the Thomas amendment and was disappointed to see that it was not included in the bill.

Mr. THOMAS. Is it the subcommittee Chairman's intent that OMB should

promptly issue new administrative policy and process to clarify and remedy this matter so no Federal organization unfairly competes with the private sector, particularly small business?

Mr. SHELBY. Yes, that is the subcommittee's intent. As a cosponsor of Senator THOMAS' bill, S. 1724, the Freedom From Government Competition Act, and a supporter of the Thomas amendment, I am deeply concerned about this issue and look forward to OMB revising this policy.

#### IMMIGRATION REFORM

Mr. ABRAHAM. Mr. President, I rise in support of the illegal immigration reform bill as it has emerged from conference.

At the outset, I want to applaud the fact that, after considerable debate, this Congress has chosen to separate the issues of illegal and legal immigration. We should not lump legal immigrants, who play by the rules, together with illegal immigrants, who break them. Moreover, in my judgment, the best way to preserve our tradition of legal immigration is to address the public's concerns about illegal immigration. That is part of the reason why I support the bill before us today.

I would also like to applaud the changes recently made to the bill's income requirements for persons who wish to sponsor an immigrant. As reported out of conference, section 551 of the bill would have required individuals to earn at least 140 percent of the poverty line to sponsor a spouse or minor child, and to earn at least 200 percent of the poverty line to sponsor any other immigrant—for example, a parent. The effect of this provision would have been to block many middle-class Americans from sponsoring their close relatives.

Section 551 has been revised, however, to provide that an individual who wishes to sponsor an immigrant must either earn at least 125 percent of the poverty line or obtain a cosigner who earns that much. I strongly support this change, as the revised section 551 arguably provides sponsors with more flexibility than does current law.

Nevertheless, I would like to outline a number of my concerns with this bill.

To begin with, Mr. President, I am concerned about the verification pilot projects included in this bill. These projects constitute the first steps toward a National Identification System.

This legislation mandates three pilot projects of 4-year duration.

Now, as it stands these tentative steps are reversible. We have basically postponed the day of reckoning on this issue for 4 years. But this is an issue that I believe does not warrant field study.

Americans should not be subjected to a national identification system, period. Any such system will put people's jobs, property, and rights at risk of bureaucratic incompetence and abuse for no good reason. We can solve our problems without such a system, and that is what we must do to preserve our traditions of individual liberty.

In addition, I am concerned about this legislation's provisions on federalized documents.

The bill would bar Federal agencies from accepting birth certificates and drivers' licenses that do not meet new Federal standards.

This will force States to conform to Federal standards in issuing these documents, because States' citizens will want to be able to use them for Federal purposes.

It is an intrusion into an area properly subject to State control and another step toward a national identification system. It is unnecessary and it should not be undertaken.

Mr. President, I also have reservations concerning the bill's provisions on the deportability of criminal aliens. If these provisions are adopted, they will significantly weaken many of the important reforms this Congress adopted last session in the Anti-terrorism and Effective Death Penalty Act to facilitate deportation of criminal aliens.

As I have made clear throughout consideration of the immigration bill, I draw a sharp distinction between immigrants who come to this country to make better lives for themselves and those who come to break our laws and prey upon our citizens.

I have made no secret of my strong concerns about the conference report's repeal of important provision this Congress enacted into law in the Anti-terrorism Act last spring. Along with my colleague Senator D'AMATO, I have sent a letter to the immigration conferees outlining these concerns, which I would like briefly to mention here.

First the draft conference report unconditionally restores immigration judges' ability to grant so-called hardship or section 212(c) waivers to large categories of criminals who have committed serious felonies. When Congress enacted section 212(c) in 1952 as part of the Immigration and Nationality Act, it made clear that it was to apply only to those cases where extenuating circumstances clearly require such action."

Unfortunately, unelected and irresponsible immigration judges have completely and permanently ended deportation proceedings against thousands of convicted felons under this provision.

The Anti-terrorism Act corrected this outrage by barring individuals from using section 212(c) if they had been convicted of aggravated felonies, firearms, and narcotics crimes, or repeated serious offenses.

But now the conference report would restore these waivers for all criminal aliens other than aggravated felons. Repeat offenders, illegal firearms and narcotics dealers and, most shocking of all, terrorists, all would now be able to have deportation proceedings against themselves terminated.

And, even in those cases when a waiver is not granted, the request itself will delay the deportation process and make it harder to detain criminal

aliens pending deportation. That means that more criminal aliens will be released and will never be found again to be deported.

Why has this pernicious invitation to immigration judges to abuse their power been restored? I have heard no explanation. Yet, if it is because my colleagues now believe that these judges can be trusted not to abuse their discretion recent experience shows otherwise.

Even now, with section 212(c) eliminated by the Anti-terrorism Act, some immigration judges are granting the relief for criminal aliens who are in exclusion proceedings.

This plainly defies the clear meaning of the statute. The Anti-terrorism Act applies to aliens who are deportable for having committed certain crimes. It contains no reference to any proceedings in which the immigrant might be engaged, be they exclusion or deportation proceedings. The choice of proceedings is irrelevant. It is the commission of proscribed felonies on American soil that dictates the criminal alien's removal.

Fortunately, by establishing a unified system for removing aliens who do not comply with our laws, the conference report eliminates the availability of this particular misconstruction. But its restoration to the same immigration judges who devised this misconstruction of the authority to grant these waivers to large classes of criminals is simply incomprehensible.

Removal of these felons will be made even more difficult under the conference report because the bill significantly weakens the Anti-terrorism Act's requirements relating to the detention of criminal aliens. Under that act the Attorney General was required to detain all criminal aliens who have committed certain serious crimes, pending deportation.

The conference report would allow the Attorney General to release large categories of these individuals, on certifying that insufficient space exists to detain them, for 2 full years.

Again, the question is why? The Justice Department has not stated in any formal communication to Congress that there is currently or will be in the near future insufficient detention space to detain these and other dangerous individuals. Indeed, the Department not only failed to volunteer that it had any such problem, it made no such statement even in response to a letter asking for any concerns the Department might have about the Anti-terrorism Act's criminal aliens provisions. The closest the Department came was to suggest that it was theoretically possible that such a shortage might develop at some point.

Such hypothetical concerns are no reason at all to grant the Attorney General the authority to release thousands of convicted criminals back into the population, to prey on our people and perhaps never be caught again, let alone deported. If the Attorney General

needs that authority because the Immigration and Naturalization Service projects an immediate shortage of detention space, the Department knows how to ask for it. If it did, we could then assess the plausibility of the projection, as well as whether the matter could be better addressed by providing additional detention space instead. We also could ask why no request for additional space had been forthcoming.

The conference report's decision to grant this unilateral release authority without even the justification that the Department, albeit late in the day, has said it needs to have that authority on account of an imminent shortage, is frankly incomprehensible to me.

As I believe is clear, Mr. President, I have some rather serious problems with this legislation. However, we face a more serious problem, for which this legislation, even with its flaws, is needed.

I am speaking, of course, of the problem of illegal immigration. This bill contains a number of provisions that I believe are crucial to our fight to bring illegal immigration under control.

For example, the bill includes the Kyl-Abraham amendment adopted in committee. This amendment will increase by 1,000 the number of Border Patrol agents in each of the next 5 fiscal years (1997-2001).

The bill also would sharply increase penalties for alien smuggling and document fraud.

In addition, the bill includes a revised form of an Abraham amendment to impose stiff sanctions on visa-overstayers, who make up fully one-half of the illegal aliens in this country.

I regret that the "good cause" exception in my amendment was omitted from final bill. But visa-overstayers must be punished like anyone else who breaks the rules.

Finally, this legislation makes those who sponsor aliens into the country legally responsible for their support, and allows the Government to collect reimbursement for any welfare moneys spent.

In sum, Mr. President, I am concerned that identification provisions in this legislation are leading us on a path away from America's well-worn road of personal liberty toward a bureaucratic nightmare. And I am worried that this bill will allow too many criminals to stay in this country.

But we are in the midst of a serious conflict. We cannot allow law-breakers into our country. And that is exactly what an illegal immigrant is: someone who willingly and knowingly flouts our laws.

This legislation makes needed reforms to our immigration system so that we may deal more efficiently with these lawbreakers. To my mind this is an important step toward a more fair and open immigration system.

SEC. 343. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTHCARE WORKERS

Mr. SPECTER. Mr. President, I would appreciate it if Senator SIMPSON