United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, THURSDAY, OCTOBER 30, 1997 No. 149

Senate

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by guest Chaplain Dr. Charles Lever, Lake Magdalene United Methodist Church, Tampa, FL. He was born in South Carolina, but he moved to Florida.

We are glad to have you with us.

PRAYER

The guest Chaplain, Dr. Charles Lever, Lake Magdalene United Methodist Church, Tampa, FL, offered the following prayer:

Almighty God, You know the desires of our hearts, the burdens we bear, and the temptations we confront. Awaken us anew to Your way, that our hearts may be made pure, our burdens lightened, and our will made steadfast in confrontation with temptation.

We pray for our Nation, for we realize the wisdom of the Psalmist who wrote, ''Lest the Lord build the house, they labor in vain who build it.'' We pray for the world, for we know that You are the creator of all peoples. As we celebrate our commonality as Your people in this global community, we also recognize the great diversity that exists between and among us. As the destiny of our Nation is tangled with the destinies of other nations, let us seek a world in which we can live and work together, always seeking the betterment of people everywhere, and never yielding to those who oppress the human spirit.

Bless these men and women of the U.S. Senate who seek to lead this Nation through the challenges of each new day. Grant them Your wisdom as they bear the tremendous responsibility for so many, that the decisions they render might bring healing and hope to those under their care. Empower them to find Your way in the midst of the crossroads of life that Your vision and Your kingdom may be first in their minds and hearts.

For Your presence with us in a world which all too often teeters between faith and doubt, hope and despair, we give You thanks for Your healing and renewal in both our public and private lives. Enable us in all our ways to follow after You in the paths of righteousness. We ask this, O Lord, in Your name, which is above every name. Amen.

DR. CHARLES LEVER, GUEST CHAPLAIN

Mr. MACK. Mr. President, the Senate is honored today to have Dr. Charles Lever with us. Dr. Lever is the senior minister at the Lake Magdalene United Methodist Church in Tampa in my home State of Florida. We are also happy to have his wife, Xiommy, who works as a hematopoeitic product specialist at Ortho Biotech and is also active in the church as a certified lay speaker and is involved in Disciple Bible Study and the Walk to Emmaus. They have two sons—Chaz who is in the seventh grade, and Chapman, who is in the first grade.

Dr. Lever was called to the ordained ministry as a young man. He began his education at Wofford College in South Carolina, where he earned a bachelor of arts degree. He earned a master of divinity from the Candler School of Theology at Emory University in Atlanta, and a doctor of ministry from Vanderbilt University in Nashville. He has also done continuing education work at the Jerusalem Center for Church Studies in Israel, and the Robert Schuller Institute in Garden Grove, CA.

Among his many educational and leadership awards and honors are the American Legion Award, induction into Phi Beta Kappa, Blue Key, and numerous other honorary fraternities and societies.

Mr. President, with some 3,200 members, Lake Magdalene Methodist is one of the largest churches in Florida. But Dr. Lever's accomplishments have always extended far beyond the santuary of his church. He is a leader in numerous organizations serving the people in his local community. Among these are the 90-unit apartment complex for the elderly, 125-unit child care center for low-income families, and the Life Center for older adults that he served as minister at the Riverside Park United Methodist Church of Jacksonville, FL.

He is active in both district and conference affairs of the United Methodist Church in Florida. He has served on the board of the Christian Enrichment School, the district committee on finance, and the Conference Council on Ministries.

The list of Dr. Lever's church and community leadership achievements is impressive and quite extensive. I ask unanimous consent that his biography be printed in the RECORD in its entirety at the end of my statement.

Let me say again, Mr. President, the Senate is honored and very pleased to have Dr. Lever with us today, and we appreciate his opening prayer this morning. I'm sure all my colleagues wish him and his family all the best in his ministry to the members of Lake Magdalene United Methodist Church of Tampa, FL.

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

DR. CHARLES C. LEVER, SR.

Dr. Charles C. Lever, Sr. is the Senior Minister at the 3,200 member Lake Magdalene United States Methodist Church (UMC) in Tampa, Florida. His wife, Xiommy is a Hematopoietic Product Specialist with Ortho Biotech, one of the Johnson and Johnson family of companies. They have two sons, Chaz, who is in the 7th grade and Chapman, who is in the 1st grade.

Dr. Lever received his Bachelor of Arts degree from Wofford College is Spartanburg, SC; his Master of Divinity degree from Candler School of Theology at Emory University in Atlanta; and has Doctor of Ministry degree from Vanderbilt University in Nashville, TN. Dr. Lever's continuing education credits include work at the Jerusalem Center for Church Studies in Israel; the Robert

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

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Schuller Institute in Garden Grove, CA; and others.

Dr. Lever is the recipient of the American Legion Award for ''Courage, Honor, Leadership, Patriotism, Scholarship and Service.'' He has been inducted into the International Honorary Chapter of the Sigma Nu Fraternity, the Phi Beta Kappa ''National Scholastic Society,'' and Pi Gramma Mu ''National Social Science Honor Society,'' the International Society of Theta Phi for ''Scholars and Leaders in Religion,'' the Blue Key National Honor Fraternity which recognizes ''Academic and Extracurricular Leadership,'' and has been listed in various volumes of ''Who's Who, Outstanding Young Men in America,'' and ''The Dean's List.''

Dr. Lever has a varied background in Christian Ministry. In college he served as Youth Counselor at the Look-Up Lodge and Camp in Traveler's Rest, SC; as a Youth Director at Duncan Memorial UMC in Spartanburg, SC; and as a Summer Youth Director at Southside UMC in Jacksonville, FL. In seminary he served as Minister of Martin's Chapel UMC in Lawrenceville, GA; as Chaplain to the terminal care unit at Wesley Woods Health Center in Atlanta, GA; and as Chaplain to the oncology unit at Crawford Long Memorial Hospital in Atlanta, GA. Dr. Lever's first appointment in the Florida Annual Conference was to the Ortega UMC in Jacksonville, FL. He then served Swaim Memorial UMC also in Jacksonville. While at Swaim UMC, Frank and Helen Sherman gave seven million dollars to begin the Sherman Scholarship program for students entering the ministry from the Florida Conference and one thousand dollars to begin a preschool program during the weekday at the church. After Swaim UMC, Dr. Lever then served Riverside Park UMC in Jacksonville until his appointment to Lake Magdalene UMC in June, 1995. Riverside Park is recognized for its numerous outreach ministries including a ninety-unit apartment complex for the elderly, a 125-unit child care center for low income families, and The Life Center (a community outreach ministry for older adults which draws individuals from around the city).

Dr. Lever is active in both District and Conference affairs. In the Jacksonville District he served on the Board of the Christian Enrichment School, the District Committee on Finance and the District Committee on Superintendency. He also served as Chairman of the District Committee on Ordained Ministry. On the Conference level, he has served on the Conference Council on Ministries, the Conference Work Area on Education and he currently serves on the Conference Board of Ordained Ministry (CBOM). On the CBOM he serves on the Executive Committee, the Guidance Committee, the Policy Committee and as the CBOM Secretary.

Dr. Lever has served on numerous boards and agencies. Among these are the boards of the St. Marks Ark Lutheran Church Child Care; the Riverside Park Apartments; The Riverside Park Child Care Center; and The Life Center. He has also served as Vice-Chair of the Wesley Manor Retirement Community and as Vice Chair of the Wesley Villas which is currently completing a 6 million dollar, 640-unit villa retirement complex.

Dr. Lever received his calling into the Ordained Ministry as a youth and received his License to Preach in 1975. He met his wife, Xiommy, on a double-date in high school (they were both dating other individuals as the time) and ended up dating their senior year in high school. Their common love for the church and of one another made them an ideal match for each other. Today, Xiommy is active in Disciple Bible Study and the Walk of Emmaus. She also serves as a Certified Lay Speaker in the United Methodist Church.

Dr. Lever is excited to be sharing in the ministry of Lake Magdalene UMC. He believes that the bedrock to our faith is to be found in coming to know Christ and in making Him known to others through word and deed. It is to this end that Dr. Lever has committed his life to God's Kingdom.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator GREGG, is recognized.

Mr. GREGG. Thank you, Mr. President.

SCHEDULE

Mr. GREGG. Mr. President, this morning the Senate will immediately proceed to executive session for consideration of Calendar No. 324, the nomination of Charles Siragusa of New York to be a U.S. district judge. Under the order, the time between now and 10:30 a.m. will be equally divided between the chairman and the ranking member. At the expiration or yielding back of time, the Senate will proceed to a vote on the Siragusa nomination. Therefore, Senators should be alerted that there will be a rollcall vote this morning at 10:30 a.m.

Following the vote, there will be a period of morning business until 12 noon. At 12 noon the Senate will begin consideration of S. 1292, a bill disapproving the cancellations transmitted by the President on October 6. While that measure has a 10-hour statutory time limitation, it is the hope of the majority leader that much of that time may be yielded back.

The Senate may also consider and complete action on any or all of the following items during today's session: The D.C. appropriations bill, the FDA reform conference report, the Amtrak strike resolution, the intelligence authorization conference report, and any additional legislative or executive items that can be cleared.

I also remind all Senators that under rule XXII, they have until 1 p.m. today in order to file timely amendments to H.R. 2646, the A-plus educational savings account bill. Needless to say, all Senators should expect rollcall votes throughout today's session of the Senate.

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

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF CHARLES J. SIRAGUSA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the nomination of Charles J. Siragusa, of New York, which the clerk will report.

The legislative clerk read the nomination of Charles J. Siragusa, of New York, to be U.S. district judge for the Western District of New York.

The PRESIDING OFFICER. The time until 10:30 a.m. shall be equally divided between the Senator from Utah [Mr. HATCH], and the Senator from Vermont [Mr. LEAHY].

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, on behalf of the leader, I ask unanimous consent that the vote scheduled for 10:30 a.m. today be postponed until 12 noon.

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

LEGISLATIVE SESSION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

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

MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that a period for morning business now commence until 12 noon and that the previous order with respect to S. 1292 then follow the vote.

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

Mr. GRAMS. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for up to 15 minutes.

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

DOD AUTHORIZATION BILL CONFERENCE REPORT

Mr. GRAMS. Mr. President, I rise in opposition to the conference report to the DOD authorization bill. One of the issues which held up the resolution of the conference was the high performance computer issue. This matter certainly was not resolved to my satisfaction, and I understand that this is one of three issues that may cause the veto of this legislation.

On July 10 the Grams-Boxer amendment passed in the Senate by a vote of 72–27. It created a GAO study on the national security concerns related to computer sales between 2,000–7,000 MTOPS to tier 3 countries. Those countries include China, Russia, and Israel.

The amendment was a second degree amendment to an amendment which sought to license exports of these midlevel computers, after they had been decontrolled 2 years ago. Rather than creating an unwise barrier to US-made exports, 72 of my colleagues believed we needed more study of this issue before passing this new regulation on the Senate floor circumventing the usual committee debate and consideration.

Mr. President, as Chairman of the Subcommittee on International Finance, of the Banking Committee, which has jurisdiction over export control matters, I strongly opposed this attempt to circumvent the normal committee process. Chairman D'AMATO joined me in vigorously opposing the underlying amendment, paving the way for a strong Senate vote on the issue.

After the vote, Chairman D'AMATO and the Subcommittee Ranking Member CAROL MOSELEY-BRAUN joined me in sending a letter to the Conferees requesting we be consulted prior to any attempts to modify the Senate provision in conference. I regret that at no time in the months-long process did any consultation occur, even though the issue was clearly one of Banking Committee jurisdiction.

I was informed by the conferees that they had accommodated my request for a GAO study. What I determined from other sources was that language accompanying my study essentially accomplished the same thing as the underlying amendment my second-degree amendment defeated. And I was supposed to be satisfied because my study remained in the bill.

I applaud my colleagues who worked hard in the conference committee to complete the report. There were many difficult issues effectively handled. In total, the bill is a good one. However, because this bill may be vetoed, I would like to make a strong case for further resolution of this issue once it is returned to conference.

My specific concerns with the provisions of the conference report are the following:

First, rather than a mandate to obtain export licenses for computers between 2,000 and 7,000 MTOPS to tier 3 countries, the conference report would require a 10 day notice to Commerce of a proposed sale. If no government entity opposes, the shipment can be made. This not only creates a bureaucratic nightmare taking scarce resources away from review of truly sensitive export license applications, but the reality would be that there would be an objection to each one of them—if for no other reason that the Government needs more time to look at them. So the 10-day notice requirement essentially implements the intent of the original amendment the Senate defeated. This is not acceptable. The reason we decontrolled in the first place, requiring licenses between 2,000 and 7,000 MTOPS only to questionable end users in tier 3 countries, was to free up needed resources to analyze exports of higher performance computers, including those computers between 20,000 and well over 1 million MTOPS—which are the real supercomputers. Opponents of my amendment insisted on defining computers between 2,000 and 7,000 MTOPS as being supercomputers, but supercomputer technology has long ago passed this level of computers. They are now the kind of computer systems we have in our offices. They are not supercomputers used to design nuclear weapons.

There is a 180-day layover for future decontrol of computer level changes and a 120-day layover for any changes in which countries remain on the tier 3 list. I believe the President should have flexibility to continue to exercise current authority to make these changes. These layovers will give opponents plenty of time to prevent these changes—and will ensure that no changes will be made in the future even though rapid technology advancements challenge us to maintain a system for decontrols in the future.

Mr. President, there is also a requirement for end-user verification that could be unenforceable and also create a strain on limited resources. This language should be worked out with the Administration. Certainly post shipment checks should not be required over 2,000 MTOPS regardless of whether decontrol is made in the future. Even by next year that level of computer will be found in the local computer store, so it is unlikely that all of these verifications could be made. Also, there should be some discretion regarding whether verification in every case is even necessary if the exporter maintains service on the computer.

Mr. President, I am just as concerned about selling sensitive high-technology equipment to military end users, but I don't think this is the right way to stop the few diversions that brought about the original amendment. There is adequate enforcement authority now to address diversions. Those that have occurred are being addressed.

Mr. President, my floor amendment also asks Commerce to work more closely with companies to identify questionable end users than they are doing now. The GAO study will help us study national security interests involving sales of computers at this midlevel. There simply is no need for the provisions added in conference that will compromise our efforts to remain competitive with other nations which do not have these type of requirements. Anyone who will tell you that an export license takes only a short time is wrong. It takes months. And sales have been lost because of our lengthy, burdensome licensing process.

Mr. President, I urge my colleagues to oppose this conference report. I also ask unanimous consent that a copy of my statement at the time my second-degree amendment was offered be printed in the RECORD. That statement relates all of my reasons for opposing the underlying amendment reimposing export licenses of these midlevel computers.

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

[From the Congressional Record, July 10, 1997]

Mr. GRAMS. Mr. President, I understand that there is a lot of concern in this body about United States computer sales being diverted for military use to either China or Russia. None of us wants that to occur. But we have to consider whether the Cochran amendment solves the problem. I believe that it does not.

The Cochran amendment would require export licenses for all midlevel computers. Now, these are not supercomputers, these are not high-end computers. You are going to hear that term, but they are not supercomputers. These are midlevel computers, and they are shipped to China, Russia, Israel, and 47 other countries. We talk about the Third Tier countries. They involve 51 nations, like Russia, China, India, Pakistan, Saudi Arabia, Israel, Romania, and the Baltic States. Some of our future NATO Allies could also be involved. Mr. President, export licenses do not solve end-user problems. These are diversions that would not have been caught during the export license procedure. Export licenses do require end-user certification, but if the end user chooses to ignore the agreement, or if the computer is stolen, that possibility will not be evident in the licensing process. In my judgment, the current system works.

Just yesterday, Secretary of Defense Bill Cohen sent us a letter opposing the Cochran amendment. He said the current law and system can deal with unauthorized exports and diversions. This is from the department that has been very conservative on all export decontrol matters. Secretary Cohen further states that we should focus our controls on technology that can make a national security difference, not that which is widely available around the world and is obsolete.

Yes, Mr. President, there have been three diversions, but that was out of 1,400 sales. But, no, this is not the right way to address those problems. The right way is to force the administration to publish as many military end users as possible and then to work with the industry to identify all military end users. We have been able to identify diversions through our capable intelligence sources. Mr. President, there is no evidence that there are dozens of computers out there used by military end users. It is just not there.

Further, I don't believe that the industry irresponsibly ignores available information about military end users. They have too much at stake. A company which violates export control laws takes a very big risk. The penalties are prohibition of all exports for 20 years or more, 10 years in prison, and up to a $5,000 fine for each violation. This doesn't include the blemish that would remain on the company's reputation or the great difficulty that company would have in the future seeking an export license. No company, Mr. President, can afford that risk.

What we would be doing here this morning is handing this midlevel computer business over to the Japanese and other allies. Now, again, I want to emphasize that these are midlevel computers, they are not supercomputers. Next year, they will be the kind of systems that we will be able to have in our offices here in the Senate, or what you could find in a small company or in a doctor's office. These are not the computers that are sought after for nuclear weapons production or design. Again, we are looking

at midlevel computers, between 2,000 and 7,000 MTOPS, which are widely available around the world.

Supercomputers, which are sought after for weapons design, start at the 20,000 MTOPS level and go all the way up to 650,000 this year, and they will go beyond the 1 million MTOPS level next year. By the way, China already produces a computer at 13,000 MTOPS. No other country considers these computers to be anything but generally available and will step in to take over the business that the Cochran amendment will hand to them. The question is, is that what we want?

Also, anyone can purchase upgrades, by the way, to raise a PC, a current PC, above the 2,000 MTOPS level. We can't control the box. We can't control the chips around the world that can be put in it. We can't control the upgrades. There is no way to control these low-level PC's under the 2,000 MTOPS threshold, again, since they are available in nearly every country in the world.

Further, the chips that make up these computers are also available and produced around the world. They were decontrolled during the Bush administration. Our chip producers have markets throughout the world, and they need to maintain them to remain competitive. Chip producers cannot control who receives their end product.

Also, how do you prohibit a foreign national from using a computer even above the 7,000 level here in the United States and taking the results back, or faxing it back?

Our friend Jack Kemp has written to us also this week stating that the Cochran amendment would ''establish a policy that is destined to fail and would hurt American computer manufacturers without protecting our national security. The American high-technology sector is critical to the future of this country and must be protected from overly intrusive Government restrictions.''

I wish there was something we could do to effectively control some of these exports, but it is just not possible at these lower levels. We cannot convince our allies to reverse 2 years of their own decontrol. In fact, Europe has tabled a decontrol proposal at 10,000 MTOPS, which proves that they have no intention of even respecting our 7,000 level. We cannot pull all the PC's and upgrades off the retail shelves, and we cannot close our borders to prevent all foreign nationals from entering this country and using our computers.

We must concentrate our resources on keeping computers above the 7,000 level from reaching military end users; that's for sure. But I fear that an increased license burden in the administration would steer resources away from efforts to locate diversions and investigate them.

Now, Mr. President, in an earlier statement, I also countered a claim that an export license requirement would not slow down these computer sales. I have heard that someone made the comment that an export license would take 10 days. Well, anyone who knows how the licensing process works knows that it can take many, many months to obtain one. This will only earn our industry a reputation as an unreliable supplier, and it will cost us sales and it will cost us many, many U.S. jobs. The administration admits that a computer license application averages 107 days to reach a decision. I have seen it take far longer. Even 107 days, by the way, is enough to convince the end user to go out and seek a buyer in another country.

Since so many of the Tier 3 countries are emerging markets, we need to be in there early to maintain a foothold for future sales. When we hear about the 6.3 percent of sales to Tier 3 countries, that is misleading. It is in an area where the market is expanding rapidly. If we leave our companies out of those markets, they will not be there to compete in the future. They will not be there to provide sales and jobs for the United States.

Another argument I have heard is that there is no foreign availability over 3,500 MTOPS. Well, last year, NEC of Japan tried to sell a supercomputer to the United States Government at a level between 30,000 and 50,000 MTOPS. They match our speeds all the way to the top.

Mr. President, I believe that all of us are proud of our computer industry, that our industry remains the state of the art in so many areas, particularly in the levels above 7,000. We have made progress to facilitate exports without compromising our national security, progress which began back in the Reagan and Bush administrations, but here is an effort today to reverse all of that progress.

Our industry has to survive on exports, and it has to pursue commercial business with these 50 countries to remain competitive. All computer sales over the 7,000 MTOPS level do require license now. We have not sold any computers above that level. And, again, the 7,000 MTOPS are not supercomputers—they are not—they are midlevel computers. We have not sold any computers above that level to Tier 3 countries; nor do our allies, to my knowledge. However, we should not restrict the sales of these midlevel and, again, generally available computers to commercial end users. We should simply maintain the current licensing requirement for the questionable end users. I firmly believe that there will be improved cooperation between the Government and industry on end-user information, particularly those for Russia and China.

Now, I also commend the Commerce Department for starting to publish information on end users and to examine all sales that are made to the Tier 3 countries within these computer speeds.

The Grams-Boxer amendment requests the GAO to determine whether these sales affect our national security. That is very important. It will look into the issue of foreign availability. It will also require the publication of a military end-user list, and it requires Commerce to improve its assistance to the industry on identifying those military end users.

There will be some that vote today solely to express their dissatisfaction with China's alleged military sales to our adversaries. Let me remind you once again that there is no evidence that U.S. computers were involved in any of those cases. I also urge you to look at the merits of this issue. Pure and simple, the Cochran amendment would hand the sales of midlevel computers over to the Japanese and the Europeans at the expense of an industry that we have sought to protect and to promote and an industry that we are proud of.

As chairman of the International Finance Subcommittee of Banking, the committee that has jurisdiction over this issue, I strongly, this morning, urge my colleagues to vote for my substitute and let us continue this debate in the normal manner, through committee consideration. At the same time, the administration should step up its efforts to express to the Chinese and the Russians our grave concerns regarding efforts to divert commercial sales to military end users without knowledge of the United States seller.

Mr. President, I appreciate the efforts of my colleague from Mississippi to address these diversions. I want to work with him in my role as chairman of the subcommittee of jurisdiction to ensure that the current system does work or on how we can improve it once we have better information regarding the extent of the problem.

I urge the support of my colleagues for the Grams-Boxer substitute as a compromise to this very, very controversial issue. Thank you very much.

AGRICULTURE APPROPRIATIONS CONFERENCE REPORT

Mr. GRAMS. Mr. President, I rise today in support of the fiscal year 1998 Agriculture appropriations conference agreement that was passed last night. There is much to be proud of in the conference agreement and I feel it is another step forward in implementing the 1996 farm bill.

I am particularly pleased with the inclusion of the Grams-Feingold amendment directing the Office of Management and Budget to conduct a study of the economic impacts of the Northeast Interstate Dairy Compact.

I will not reiterate my long-standing opposition to implementation of the compact or the history surrounding its inclusion in the 1996 farm bill. But along with my colleagues in the House and Senate who have an interest in equitable and lasting dairy reform, I remain committed to bringing fairness to Minnesota's dairy farmers.

There has been some disagreement as to what should be included in such a study. I know the senior Senator from Vermont has addressed us on more than one occasion in defense of the compact. More recently he outlined his concerns regarding what he felt should be included in the OMB study.

However, I must stress that these are the remarks of one Senator and should not be misconstrued by OMB or anyone else as the official position of the U.S. Senate.

The conference agreement clearly calls for a comprehensive economic evaluation of the direct and indirect effects of the compact. I welcome the results of a study I expect to be free of outside influences. I am confident this compact will be exposed as a misguided, ill-fated attempt at market manipulation.

Mr. President, the OMB study in this conference agreement will help us assess the compact's effects on the poor, needy senior citizens and children, as well as the Nation's dairy producers.

It is to be completed by December 31, 1997, and I will closely observe its progress in order to ensure that the study is conducted in a fair and equitable manner and is not manipulated by outside interests. I expect the administration to allow an independent study that is not influenced by any USDA or White House political agenda.

Another provision I am pleased was included will prohibit Agriculture Market Transition Act [AMTA] payments to a producer who plants wild rice on contract acreage, unless the payment is reduced proportionally.

As it currently stands, producers of other commodities who choose to plant wild rice on land designated for other crops can receive both their AMTA payment and the proceeds for sale of

their wild rice. This has placed wild rice farmers at a disadvantage. It violates the intent of the law and it also results in unfair competition.

I am pleased the House and Senate conferees agreed with my amendment and chose to include it in this agreement. The provision clarifies congressional intent and restores fairness to our farm payment system.

I also want to make special note of the research funding contained in this bill for fusarium head blight, commonly known as scab, and vomitoxin.

During a recent trip through Minnesota's Red River Valley, wheat and barley producers stressed time and time again the economic impact these diseases have had on their crops. Minnesota is again experiencing an epidemic of scab which marks the fifth straight year the disease has been seen to some degree in the Northern Plains.

When added to contributions producers and the State of Minnesota have made to scab and vomitoxin research, I believe that the provisions contained in the research titles of this agreement are an appropriate approach to the Federal commitment regarding long-term basic research.

Mr. President, as I have stated many times both here and in Minnesota, we must give our farmers the tools to manage their business and not hamstring their creativity and productivity from Washington.

Although there is much work to be done regarding dairy and regulatory reform and risk-management, this conference agreement is a step in the right direction. I look forward to its immediate passage.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ASHCROFT. Mr. President, may I inquire as to the state of the business of the Senate?

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

Mr. ASHCROFT. May I inquire when that expires?

The PRESIDING OFFICER. Twelve o'clock.

Mr. ASHCROFT. I ask unanimous consent that, joined by my colleague from Arkansas, Senator TIM HUTCHINSON, we be allowed to speak in morning business for 25 minutes.

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

UNITED STATES-CHINA RELATIONS AND AMERICA'S POSITION AS A WORLD LEADER

Mr. ASHCROFT. Mr. President, I am pleased to come to the Senate floor today, joined by my friend from our neighboring State of Arkansas, Senator TIM HUTCHINSON.

As the 21st century approaches, Senator HUTCHINSON and I both share a desire to see the United States maintain its position as a world leader—a world leader that emphasizes opportunity and freedom. A strong America abroad preserves the safety of our citizens at home and helps advance the ideals of liberty around the world.

The United States is involved internationally in very substantial ways, and in some of those settings it is my fear that, instead of exhibiting strong leadership, we have demonstrated that we are incapable of demanding integrity and of requesting that others deal with us honestly.

We are in the waning moments of a summit meeting between the President of China, Jiang Zemin, and President Clinton. Summit meetings can be very important times. They can provide opportunities for the United States to demonstrate leadership, to demonstrate a commitment to freedom and integrity in international relationships. Or they can do the converse and they can demonstrate that America will not demand integrity, will not demand a commitment to freedom and fair play. Summits can indicate that America does not have the kind of care for the rights of individuals generally around the globe that we would be known for historically in this country.

When we have summit meetings, we need to advance America's security and economic interests. Summit meetings should be times of structural advance for the United States, when we put in place the kind of framework that will result in our country being stronger—the kind of framework that will preserve our security and advance freedom around the world.

If statesmanship is not present, summits can become transactional rather than address the critical structural issues in a bilateral relationship. We have seen that during the United States-China summit this week, where the President of the United States has been eager for certain businesses to sell their goods to China, and has, in this particular summit, made it possible for the Chinese to gain access to some of the most important and sensitive nuclear technology in the United States. But the real issues in United States-China relations, however, have been deferred. Critical national security challenges, a staggering trade deficit, and an appalling human rights record in China all took a backseat to business contracts.

Summits can turn into shallow media events when the critical bilateral issues are ignored. The United States-China summit was worse than just a shallow event. Unfortunately, it was an event which demonstrated that we were willing—in order to acquire certain business contracts—to look past what ought to be clear, structural issues that ought to galvanize our attention. China did not come to the summit to make real concessions on any front, and we responded with accommodation and appeasement. We agreed to have the summit anyway, in spite of the fact that China didn't come to provide genuine progress for the people of China or for the people of the United States.

Whenever we don't achieve structural change, such as progress in our trading relationships, which would be a reduction in tariffs or nontariff barriers from China; whenever we don't see an improvement in the human rights situation in China so that personal freedom is advanced; whenever we don't have a clear record which demonstrates that China will cease proliferating nuclear and chemical weapons and mass destruction technology—we have lost the ability to advance our nation's fundamental interests and we have traded principle for a few commercial contracts.

The real opportunity of summitry is the opportunity for structural change—not of transactions alone. It is an opportunity for statesmanship—not just salesmanship.

I don't think it is wrong for the President of the United States to want to sell our goods abroad. But when we sell our goods and our principles along with them—the kind of commitment we have to freedom, the kind of commitment we have to integrity, the kind of commitment we have to stopping the proliferation of nuclear and chemical weapons around the world—I think the price is too high.

I think we will have to ask ourselves when we look at the record of this summit, ''Has this been an exercise in statesmanship, or has this been an exercise in salesmanship?'' If it has just been an exercise in salesmanship, what have we sold? Have we bartered away our credibility, our commitment to freedom and liberty, and our demand for fair and balanced trade? Have we compromised our position when it comes to combating the proliferation of chemical and nuclear weapons? In my judgment, I think we have to ask those questions very, very soberly.

Did the summit advance America's economic and security interests? Did it put United States-China relations on a firmer footing by addressing the critical issues in our bilateral relationship, or was it centered around accommodation and big-ticket commercial deals? Have we, instead of engaging in statesmanship, just found ourselves engaged in salesmanship and perhaps selling some of the things which we hold most dear in the process?

My distinguished friend from Arkansas has shared many of these same concerns about our policy towards China. Senator HUTCHINSON has looked at this situation. He has grasped, I think, what is happening pretty well.

Senator HUTCHINSON, is there any indication that the administration's China policy is defending American security, economic, and human rights interest? Or has this been something that

simply ended up as being a transactional experience where we sold some goods and apparently were sold a bill of goods in return?

Mr. HUTCHINSON. First, may I say I am glad that I am able to join my distinguished colleague from Missouri.

When he speaks of ''statesmanship'' on the issue of foreign policy, I think he exemplifies that term.

To answer the Senator's question, I think it is unfortunate that after the summit the whole issue of human rights has really taken a back seat to commercial interests and that the attention that has been given to human rights is primarily attributable to those who have been willing to protest the presence of Jiang Zemin in our country, coming to the United States with the kind of attention at a state dinner, with a 21-gun salute, and with the red carpet treatment he has been accorded.

So I am glad for those who have pushed the issue of human rights.

The President was praised yesterday for chiding Jiang for the human rights record in China. But I think the chiding at whatever level it may have occurred and to what extent it may have occurred is greatly undermined when it is accompanied by 21-gun salutes, red carpet treatment, and state dinners, that, in fact, the ultimate end result of this summit will be to give greater acceptance of the Chinese Communist Government and greater willingness to accept and condone the oppressive practices that have become characteristic of this regime.

So instructive engagement has degenerated, I am afraid, into an exercise of appeasement. I think ''appeasement'' is a very strong word to use. But when we look at the last 4 years, I think it is not too strong a term to use to describe what the administration's policy has been.

The logic behind constructive engagement, as my colleague well knows, has been that expanded trade would lead to political liberalization and that economic freedom frequently leads to political freedom.

I have had meetings with a number of dissidents this week from China, the most famous of whom in this country is probably Harry Wu. When I raised this issue with Harry Wu, I said, ''Harry, when they talk about economic liberalization leading to political liberalization and that trade ultimately always leads to political liberty if we will just give it time, that greater trade opportunities, the higher standard of living, and what they experience with economic prosperity has to ultimately lead to political liberalization and greater freedom,'' his response was if the administration were sincere in that, if they were genuine in that conviction, why not use that in North Korea, why not use that in Cuba? If, in fact, trade ended totalitarianism, we would be practicing that in other places.

I would be delighted to yield to my colleague.

Mr. ASHCROFT. Mr. Wu is a person who speaks with some experience as it relates to the human rights situation in China because he spent some considerable time in Chinese jails as a result of speaking openly, didn't he?

Mr. HUTCHINSON. That is correct. I believe Mr. Wu spent a total of 19 years in Chinese prisons.

Mr. ASHCROFT. Is this because he attempted to rob a bank, or launched an assault on the Government?

Mr. HUTCHINSON. His incarceration was because he was drawing attention to something that China is sensitive to, which is the slave labor camp system that exists within China, and most recently, of course, his drawing attention to the Chinese Government's policy of selling organs from those who have been executed within those prisons.

Mr. ASHCROFT. So for telling the truth in China, he spent 19 years in Chinese prisons.

Mr. HUTCHINSON. Simply for being willing to express a dissenting opinion.

Mr. ASHCROFT. During the time when he was in prison, was there expanding trade or contracting trade with the United States?

Mr. HUTCHINSON. As the Senator knows, trade has consistently expanded. I might also add that our deficit in trade with China has expanded as well, so that this year it is anticipated we will have a $44 billion trade deficit.

But I think at the time Harry Wu was first incarcerated, it was down in the single digits.

Mr. ASHCROFT. The expanded trade didn't expand his rights very effectively. He is free, and has to be outside of China to be confident of his ability to continue to speak freely.

Mr. HUTCHINSON. I believe what underscores that even more is during the 8 years since Tiananmen Square and during the 4 years since we have adopted this so-called policy of instructive engagement, by every measure, human rights conditions in China have deteriorated, which seems to me to greatly undermine this approach that economic trade will lead to greater political liberty.

Mr. ASHCROFT. I thank the Senator.

Mr. HUTCHINSON. So the administration's decision not even to consider human rights abuses when dealing with China has proven, I think, disastrous for the people of China and they have been removed from the threat of any repercussions; that is, the Chinese Communist government in their trade relationship with the United States and the Chinese Communist leaders have succeeded in jailing every last dissident in a country of over 1 billion people. So rather than seeing expanded liberties, we have seen those contracted by the jailing of every last dissident as our country has turned a blind eye to the atrocities that have escalated, and the oppressive government in China has strengthened its hold on fully what is one-fourth of the world's population.

Since the United States formally delinked American trade with China from its human rights performance of abuse, much has changed, but nothing has changed for the better.

I had in my office yesterday—I share this with the Senator from Missouri—a number of Chinese political dissidents, democracy dissidents, those who had raised their voices on the side of freedom. One was a former editor with the People's Daily, a Communist Chinese newspaper. He resigned that position because they would not allow him to speak the truth.

But the one I remember the most and that made such an impression upon me was the young man who said that on the very day that President Clinton announced his policy of delinking in which he said no longer will we tie human rights abuses and violations to our attitude toward trade with Communist China, it was on that very day that they came and rounded him up and his incarceration and his prison term began.

So the policy of constructive engagement has simply failed. It has produced more persecutions of Christians, more forced abortions, more sterilizations to the mentally handicapped, more incarcerations of political dissidents, and the near extinction of the expression of any opinions contrary to that of the Communist regime.

I participated yesterday, I believe it was yesterday, in the ''Adopt a Prisoner of Conscience'' Program that began on the House side in which Members of the House and Senate were invited to adopt a particular individual who today is languishing in a Chinese Communist prison for no other reason—not because they robbed a bank or because they mugged somebody, or they robbed—for no other reason than they had expressed their own conscience contrary to that of the Communist government.

The ''prisoner of conscious'' whom I adopted, and whose name I do not seek to say, was charged with this crime: Helping Christians. That was the charge. That is why he is incarcerated. The date of release is unknown. How long he will stay in prison we don't know. But his crime was simply helping Christians.

So I suggest, as I yield to the Senator from Missouri, that this policy of constructive engagement has failed, and at some point, if time allows, I would like to talk about how this foreign policy contrasts so poorly with the very firm foreign policy that we had under Ronald Reagan.

Mr. ASHCROFT. I thank the Senator.

I have to say in response to the Senator that the contrast between the rights of man in America and the kind of lip service given to freedom by the Chinese leadership could not be more striking.

When asked about the nature of liberty, Chinese President Jiang said that liberty, in and of itself, is not an absolute, that it is a relative thing. He

analogized it to Einstein's theory of relativity. For President Jiang, liberty is something that can grow or shrink depending on the need, or the circumstance of the moment. Freedom might be something to be cherished; it might not.

In contrast, the United States of America was founded on the concept in our Declaration of Independence that we are endowed by our Creator with inalienable rights. And this means a couple of things. One, that these rights are not relative, they are not adjustable; they are immutable, they are unchangeable—that these are given to us by God. It also suggests to us that they are given to everybody because it is the Creator that gives the right. It is not even governments which give rights. Rights are something that we are given by virtue of being created, and these rights are for the benefit of people all across the globe.

We have on the one hand a Chinese leader that would have total latitude to adjust rights based on a theory of relativity. That is precisely what is happening in China. Someone being an accessory to Christianity, helping a Christian, finds himself in jail for an indeterminant length of time; someone who not only is not engaged in domestic unrest or criminal activity, but is just assisting other people in their own ability to recognize the existence of a Creator in accordance with their beliefs. In China, accessories to Christianity are criminals.

That is the extent to which liberty can be withheld or granted in China, and that makes it very difficult to deal with such a goverment. The administration invites the Chinese delegation to the United States and we talk to them about human rights issues. While those officials are here in this country, it is very easy for them to make commitments to human rights in China. Since rights are relative, promises can be made now, but when the delegation returns to Beijing, the commitments take on new meaning.

The truth of the matter is that I think America has it right about rights, that rights are something granted by the Creator, guarded perhaps by government, sometimes threatened and taken away by government. But rights are something we have because of our creation and our existence. They are not relative. They are not dependent upon whether someone thinks the condition is favorable to the rights of man. These are things which we are born with, we are created with. They are inalienable. They are immutable.

President Jiang often says the right thing on human rights. Even China's constitution provides for fundamental human rights. China signed the U.N. International Covenant on Economic, Social and Cultural Rights this week. Signing documents is painless, but if you really believe that rights are relative, that circumstances determine rights, what does the signature mean? It means that the rights will be granted so long as we want them to be granted.

The 1996 State Department human rights report says, ''All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end.''

Now, that is a sobering concept, when our own State Department says, ''No dissidents were known to be active at year's end.'' That has a very sobering tone. I believe that we ought to demand and expect a better human rights record from the Chinese Government.

Mr. HUTCHINSON. If the Senator will yield?

Mr. ASHCROFT. I am pleased to yield.

Mr. HUTCHINSON. I was impressed with the Senator's comments as he reminds us of what Jiang has said concerning rights, that they are relative, that they are not absolute. And how do you deal, how do you negotiate, how can you trust a leader that has that concept of liberties, and how that contrasts in fact with our own Founding Fathers—the attitude that they seem to have that rights are like aspirins to be dispensed as needed by the government and to expand or to contract as the situation may require?

The ideals of the American Revolution were not narrow. They were not culturally limited appeals without relevance beyond our shores. Our Founding Fathers recognized that when God gave rights, when the Creator gave rights, he didn't just give them to Americans; that he gave them to all human beings. And so the efforts of the Chinese leadership to depict Western democracy as being only a Western phenomenon, that it is a Western cultural thing like business suits or like eating with knives and forks is I think contrary to the reality that in fact rights are absolute and that civil liberties, that human rights transcend cultures and they transcend societies and they even transcend various forms of government.

The young students in Beijing 8 years ago who defied the tanks, I say to the Senator, were not there making papier-mache models of Chairman Mao but of Miss Liberty. They didn't quote from Marx. They were quoting from Thomas Jefferson. And we may not be able to save the lives of every young, brave student in the world, but we should always make it clear that our prayers and our policies are on the side against the tanks of terror and that we should never sell out his cause of freedom for trade opportunities.

I recall, as does the Senator, when the copyright issue came up with China and that China was violating American copyright laws. It was at that point that the administration threatened sanctions against China. When I was talking with Harry Wu, he replied as only Harry Wu could, that copyright equals sanctions, human rights equal no sanctions. And I think it really puts in perspective the attitude of the administration that profits seem to be more important and will bring greater repercussions and consequences with the Chinese Government than will the violation of human rights.

I thank the Senator.

Mr. ASHCROFT. I thank the Senator. I see that our time is fast fleeting. I thank the Senator for making the case against China's human rights record.

There are other points to be made about the inequities in the relationship between the United States and China. Not the least of those is trade. The average tariff that China has on our goods is about 23 percent. The average United States tariff on Chinese goods is about 4 percent. That it is basically a 6-to-1 ratio. And as a result there is a staggering trade deficit with China. The Chinese citizens do not buy nearly as much from us as other countries do.

The average Chinese buys 10 dollars worth of United States goods every year compared to $1,000 for the Taiwanese, $550 for every South Korean. Our trade deficit with Japan is troubling, but it only grew by 10 percent between 1991 and 1996. The United States trade deficit with China grew by more than 200 percent during that same period.

But as important as trade and human rights are, there is another important issue: the national security of the United States. China has been the worst proliferator of weapons of mass destruction technology, according to a CIA report. Today's Washington Times headline reads, ''Clinton Jiang Reach Nuclear Accord.'' This is an accord which is designed to give China the very best of the nuclear information we have in this country, much of it sponsored with taxpayers' dollars as a result of governmentally assisted research. And not far from the ''Clinton Jiang Reach Nuclear Accord'' headline is, ''China Aided Iran in Chemical Arms.'' This second article talks about a report from our Government that indicates that China has helped Iran develop a chemical weapons capacity—weapons of mass destruction for the kind of Third World rogue regime that we find in Iran.

To see these things juxtaposed on the front page of a newspaper sends a chill, and it should, through my spine. To think that we are signing high-level nuclear accords with governments that are helping terrorist states like Iran acquire weapons of mass destruction technology is incomprehensible.

To have that article right there, the nuclear accord, right beneath the story on China aiding Iran in the development of chemical weapons, is a dramatic illustration of this administration's failing China policy. The CIA report released this past summer said that China was the worst proliferator of weapons of mass destruction technologies in the latter half of 1996. A greater degree of caution is needed in dealing with such governments.

U.S. credibility was at stake in the nuclear cooperation debate. What kind of leadership are we providing to the rest of the world? Other countries will not take their responsibility to restrain proliferation seriously if the United States enters into nuclear cooperation with the world's worst proliferator of nuclear and chemical weapons technologies.

I thank the Senator for coming to the floor. If there are other questions or comments, I invite them.

Mr. HUTCHINSON. I thank the Senator for taking the leadership on this issue so forcefully. If I could ask unanimous consent for just 2 minutes.

Mr. LEAHY. Mr. President, I will not object but I would ask in the unanimous consent that after the 2 minutes I be recognized for a statement. I have been waiting for that time to do so.

The PRESIDING OFFICER (Mr. BURNS). Is there objection? The Chair hears none, and it is so ordered.

Mr. HUTCHINSON. In closing, may I say it is my understanding that Jiang will be in Philadelphia, PA, today at the Liberty Bell, this great cradle of liberty, this great cradle of democracy in our country. I hope he reads well the words that are inscribed in the Liberty Bell because it is from the Scriptures. I think it is from the Book of Deuteronomy. It says, ''Proclaim liberty throughout the land.'' I hope he takes it to heart, that this is a concept he needs to bring back to China, and there is much he can do, starting with no longer jamming Radio Free Asia. If he believes in liberty, let the message of freedom come into his country.

Among the dissidents I met with this week was an elderly Tibetan lady who had been arrested and spent 28 years in prison. She said that all of those who were arrested when she was arrested are now dead. And she said she has asked repeatedly, why only her? Why did she live? Why did she survive those 28 years in prison? And as we met right over here in the Foreign Relations Committee room, she looked around—there were 10 Senators there, and she looked at those Senators and said, ''That's why I survived, so I could tell my story.''

I thank Senator ASHCROFT for helping tell her story to the American people.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I have different things I want to talk about. One of the things I might talk about is the beauty of the great State of Montana, but I know I would only embarrass the Presiding Officer if I did that. So I will hold that for another occasion.

REVERSING FCC TOWER-SITING RULES

Mr. LEAHY. Mr. President, I have strongly objected to the proposed Federal Communications Commission rules that I believe essentially rob States and communities of the authority to decide where unsightly telecommunications towers should be built, and I want to renew my objection to those proposed rules.

Back when the Telecommunications Act of 1996 passed, there were only five Senators who voted against it. I was one of the five. One of my fears was that the will and voices of States and of local communities would be muzzled.

As a lifelong Vermonter, I didn't want to see that happen to my State. Unfortunately, the fears I had at that time have been confirmed. Under the so-called telecommunications reform bill, Vermont towns and towns in other States have very little say when big and unsightly towers are proposed. Towns can no longer just say, ''No, you can't put that awful tower in our community, blocking our scenic vistas.'' It is unfortunate that 91 Senators said they were willing to see the rights of towns and cities trampled that way.

The bill also prohibits towns and cities from having stricter health and safety standards regarding environmental effects of radio frequency emissions.

Here is what has happened in Vermont. Keep in mind, Mr. President, that our State is one of the most beautiful States in the country. People come to our State because of the magnificent views. And those of us who were born there want to remain there because of this beauty. Now we are being told that no matter how much we have done to promote this beauty, if somebody wants to just slap up telecommunication towers right in the middle of the most magnificent vista there may be little we can do about it.

The State of Vermont, from Gov. Howard Dean to the Vermont Environmental Board and local zoning officials and mayors and citizens, is concerned that it is losing control of the siting and design and construction of telecommunication towers and related facilities.

These people have written to the FCC opposing this rule, and I endorse their comments. They have done an excellent job representing the views of all Vermonters. As a matter of fact, I also submitted a lengthy petition, something I rarely do but I did this as a Vermonter hoping that we will influence the FCC.

I think these tower siting rules should be stopped once and for all. We ought to tear them out by their roots which were planted in the 1996 telecommunications bill.

To make sure that they can be torn out, I am introducing legislation that repeals the authority given to the FCC in 1996 to preempt State and local regulations on the placement of new telecommunication towers. I don't want Vermont turned into a giant pin cushion with 200-foot towers indiscriminately sprouting up on every mountain and in every valley, ruining the view that most of us have spent a lifetime enjoying.

I might note that my distinguished colleague from Vermont, Mr. JEFFORDS, is going to join me as a cosponsor of this legislation

The backbone of Vermont's beauty is its great mountains, surrounded by magnificent views of valleys, rivers, and streams. Vermonters do not want these scenic vistas destroyed by towers, bristling with all manner of antennas and bright lights, strobes, flashes, and everything else that destroy this vista.

I think of my own home, my tree farm in Middlesex, VT. When I step out the front door of my home, I look 35 miles down a valley ringed by mountains. I live on a dirt road, and I literally cannot see another house or another dwelling in any direction. I look at some of the most beautiful scenery of Vermont. Frankly, Mr. President, each time I am back home this renews my soul and my spirit.

I am sure all Vermonters and all those who visit us in Vermont feel the same way I do about the scenic wonders of our State. Because of that, we Vermonters have determined that we want to move with care to avoid the indiscriminate placement of towers that would jeopardize one of our State's most precious assets. We Vermonters want some say in our own life. We Vermonters want some say in protecting what is the best in our beautiful State.

Vermont citizens and communities should be able to participate in the important decisions that affect their families and their future. The location of large transmission towers have significant effects on property values, on health, and enjoyment of one's home, in fact even the ability to sell one's home.

I say the Telecommunications Act went far too far toward preemption of local control and now this proposed FCC implementation goes even further. Vermont has enacted landmark legislation, Act 250, to preserve our environment while permitting growth.

Understand, when I sit in my home in Vermont, I am connected by computer to my office in Washington and my offices in two other locations in Vermont. I can communicate with my children wherever they are by telephone or by computer. I pull up newspapers that are not available to me immediately in Vermont off the Internet. I am for progress. I think that is something Vermont has always supported, but not for ill-considered, so-called progress at the expense of Vermont families and homeowners.

It is important that Vermont not be left out of technological progress, but that is the whole reason Vermont enacted the Act 250 process. Vermont communities and the State of Vermont have to have a role in deciding where these towers are going to go. Vermonters should be able to take into account the protection of our scenic

beauty. It is not enough just to have technological advances.

So by requiring the companies to work with Vermont towns, acceptable alternatives can be found. My bill, again, affirms where the burden of proof should be: with the applicant, not the community. I trust Vermonters to do what is right to protect our State's beautiful scenery. All I am saying, Mr. President, is let Vermonters decide what to do with our scenery. The FCC rules should not stand.

The PRESIDING OFFICER. Who seeks time?

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, under the order, I believe we had 30 minutes reserved.

The PRESIDING OFFICER. That is correct.

Mr. THOMAS. Several of my associates and I want to take that time to talk about the Medicare Beneficiaries Freedom to Contract Act, which we think is very important to Medicare recipients and to the system. We want to talk about that. However, before we begin, and we will then share our time, I yield to the Senator from Kansas for several minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Thank you, Mr. President. I thank my colleague from Wyoming for yielding a couple minutes. I will be very brief about this and pointed.

(The remarks of Mr. BROWNBACK pertaining to the introduction of S. 1334 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BROWNBACK. Mr. President, I, again, thank my colleague from Wyoming and others for allowing me this opportunity to introduce this bill. I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

MEDICARE BENEFICIARIES FREEDOM TO CONTRACT ACT

Mr. THOMAS. Mr. President, we would like to scoot back now on to this focus on Medicare, the idea that Medicare patients certainly have an opportunity to choose, that we are able to strengthen the Medicare Program through this function. I will first yield to the sponsor of the bill and, frankly, the person who has carried the weight and continues to, the Senator from Arizona.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, will you please advise me when I have spoken for 7 minutes?

The PRESIDING OFFICER. We shall grant the Senator 7 minutes.

Mr. KYL. I appreciate that.

Mr. President, I appreciate the Senator from Wyoming taking this time to discuss what we think is one of the most important matters yet to be decided before the end of this legislative session. I know we have some appropriations bills to pass to ensure that the Federal Government is funded for next year, and perhaps a couple of other items, like the fast-track legislation. But in terms of important principles, I can't think of anything more important than ensuring that the American people have the right to go to the doctor of their choice.

You heard me right. I said to ensure that the American people have the right to go to the doctor of their choice. You mean they don't have that right? Well, Mr. President, unless we fix a part of the balanced budget bill that we passed earlier in this session, as of January 1, senior citizens in this country will not be guaranteed the right to go to the physician of their choice. Here is the problem.

The Clinton administration interprets the Medicare law to require that a Medicare patient be treated under Medicare; that that person cannot go to a doctor who may see some Medicare patients but is not taking anymore Medicare patients and, therefore, is unwilling to treat the patient as a Medicare patient. Here is the exact situation, a real-life story that happened to one of my constituents in the small town of Prescott, AZ.

She just turned 65. She is diabetic. She was having complications. She wanted to see a physician who could take care of her, and there weren't very many specialists in that small town. She found one who could take care of her. She went to him and he said, ''Now, you are 65.''

She said, ''Yes.''

He said, ''Then I don't think I can take care of you.''

She said, ''Why not?''

He said, ''I'm not taking anymore Medicare patients, you're Medicare eligible.''

She said, ''That is all right, send me the bill, I will pay you. We will save Medicare money.''

He checked with HCFA, the entity that runs Medicare, and sure enough, he could be prosecuted for a Federal crime if he entered into what is called a private contract with her.

That is the way the Clinton administration interprets the law and, in fact, Mr. President, that is the way they want the law to read because they don't want any competition for Medicare. Once you turn 65, it is their view that everybody should have Medicare and only Medicare. One of my colleagues said it is Medicare or no care.

That is an unacceptable choice for senior citizens in this country. Why should you become second class when you turn 65 and not be able to contract privately with a physician of your choice?

I am on a Federal health care plan. I happen to like Blue Cross, so I signed up with the Blue Cross plan. But I still go to a doctor that is outside of that plan and pay for it myself. I have that right. Why shouldn't a senior citizen have the same right that I do under my Federal health care plan? Why should someone, merely because they turn 65, be denied the right to privately contract with the physician of their choice? Maybe they have been seeing the same doctor for 40 years and they want to continue seeing that doctor but he is not taking anymore Medicare patients, why shouldn't they be able to go to him and why shouldn't he be able to contract directly with them?

We passed it 64–35 in the Senate. It went into the balanced budget bill, but the administration said, no, they would veto the balanced budget bill unless we took that provision out or unless we changed it. How did they insist it be changed, without my approval by the way? They said, OK, the patient can have the choice but no doctor can serve such a patient unless in advance he opts out of Medicare for 2 years.

Let's be realistic, only 4 percent of the nonpediatricians don't serve any Medicare patients. Most doctors have some Medicare patients. Do we want to literally force those doctors to dump all of their Medicare patients just so they can privately contract? That is not the way to encourage more doctors to see more Medicare patients. Why shouldn't a physician be able to both treat patients under Medicare and not treat patients under Medicare?

There is only one argument, other than the fact this presents some competition to Medicare. In that regard, I don't see how it hurts Medicare, because to the extent that anybody would choose not to take advantage of Medicare, they are saving Medicare money. It doesn't hurt Medicare. It actually helps Medicare, they don't have to pay as much.

There is some concern that some unscrupulous doctor somewhere might take advantage of a Medicare patient. ''I'm not going to treat you under Medicare; you have to enter into a private contract with me, and I am going to gouge you.'' I don't think that is going to happen.

Just to be sure, we built into the bill which I introduced a provision against fraud. It requires a written contract, and the patient can get out of it at any time. HCFA gets information from the doctor which tells them exactly what is going on. So if there is any fraud, that doctor can be prosecuted. So we have taken care of the major problem that has been raised.

I don't think there is any reason why our bill should not pass. I don't think this Congress should go on record as standing for the principle that when you turn 65 in the United States of America, you don't have the choice to go to the doctor of your choice, and that doctor doesn't have the choice to care for you if he wants to do that. It is wrong, it is un-American, it is a violation of fundamental rights, and before this Congress adjourns, Mr. President, we need to fix the law so that

senior citizens in this country have a fundamental right to the medical care that they deserve.

Again, I thank the Senator from Wyoming for his sponsorship of this time for us to discuss this issue. I hope we have a chance before this legislative session is over to act upon this bill to get it passed and that the President will sign it. Thank you, Mr. President.

Mr. ALLARD. Mr. President, I understand that the Senator from Wyoming controls the time, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLARD. I request 5 minutes.

Mr. THOMAS. I yield to the Senator from Colorado.

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

Mr. ALLARD. Mr. President, it is a pleasure to be here with my colleagues from Arizona and Wyoming, because I share in their concern that this is a fundamental issue of our freedom and that is the right of the seniors to privately contract their own health care.

Quite frankly, I am surprised we are having to debate this issue on the Senate floor. It is amazing to me how far we have strayed from this principle of some fundamental freedoms that the individual should enjoy.

Again, I compliment particularly my colleague from Arizona for his leadership on this particular issue and also my colleague from Wyoming.

The notion that in America we have a group of citizens who would be effectively prohibited by law from paying for their own health care is absurd.

In order to fully understand the issue, I think it is important to review a bit of the history about this particular issue.

The Health Care Financing Administration has interpreted current law to restrict voluntary, private contracts between physicians and Medicare-eligible beneficiaries. HCFA has issued threats of fines and exclusion against doctors who violate this arrangement and enter into private agreements. HCFA has created a situation where doctors must comply with regulations stipulated by Medicare if they accept even one Medicare beneficiary as their patient. Medicare, as we all know, is the only federally funded health care program that prohibits private contracting by the participants.

During the balanced budget debate, Senator KYL offered an amendment that would have allowed for seniors to use their own money for their health costs. Unfortunately, through deliberations in conference, this provision was stricken and a new law that takes effect in January requires physicians who enter into private contracts to forego Medicare reimbursement for a period of 2 years. It has been reported that currently only 9 percent of physicians do not have any Medicare patients. This provision effectively restricts the choice and the quality of health care services provided to senior citizens. This would tend to prohibit doctors from treating elderly patients and would deny seniors the choice of seeking treatment outside of the Medicare system. According to the amended law, any doctor who is found to be treating Medicare patients and privately contracting will be subject to fines and even imprisonment. In all practicality, the language makes private contracting impossible.

It is imperative that Congress revisit this issue and resolve this shortsighted legislation. I am proud to support Senator KYL's bill, the Medicare Beneficiaries Freedom to Contract Act, which would allow seniors the ability to use their own discretion and money for their health care needs. This legislation is crucial for the elderly individuals who rely on our Medicare system. By allowing senior citizens the ability to retain the doctors of their choice, they are able to receive the care that they want and require. This legislation is essential to senior citizens' rights to use their own discretion for their health care needs.

Although it is true that the deficit in January has declined, the portion of these revenues claimed by entitlement spending continues to rise as entitlement spending rises. I agree with my colleague from Arizona when he says this is also something that will help us balance the budget. Why wouldn't Medicare accept the idea that a private individual can pay for his own health care services out there? It means they don't have to pay for it. It means less expenditures on entitlement spending. It means we can do more to reduce deficit spending. Particularly at a time when Medicare is in dire need of reform, how can Congress simply deny seniors the right and ability to use their own money for health services?

This is not a ''Washington one-size-fits-all'' situation. We are talking about the health care of our Nation's elderly. Medicare beneficiaries should be given the right to pay out of pocket and to choose their own health care provider. It is their freedom we are infringing upon, and it is imperative we act now to rectify this wrong.

Congress must create a more efficient and effective health coverage program for seniors. Senator KYL's bill is one essential step to complete that goal. More choice and competition must be implemented in the Medicare Program, thereby facilitating proper health care coverage that fits different individuals' needs and desires. Congress must act now to rectify this problem.

I yield the remainder of my time.

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

The Senator from Wyoming.

Mr. THOMAS. Mr. President, we have been joined by our associate from Minnesota. Let me first say that this Medicare issue, of course, is one of the most important issues that we deal with. I think it is one of the most important issues to America. Certainly it is the most important issue to seniors. The idea is to keep it available over time so people who are now paying into part A and will pay into part A will have the benefits of it when they are eligible, to keep choice in it so that seniors will have some choice as they enter into this kind of health care; to keep it financially strong, which is the difficulty, of course—their costs have gone up in Medicare; they have finally narrowed down some, largely through the involvement of managed care, and there will be a committee or a commission appointed in December to take a look at the future of it—and to make it available in all parts of the country. My friend from Colorado just talked about that. We have small towns, we have towns in which there are only one or two physicians. So this choice thing is so important, that it be there.

Let me now yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I rise today to join my colleagues in expressing my support for Senator KYL's Medicare Beneficiary Freedom to Contract Act, of which I am a cosponsor. As I explained on the floor in a statement last Monday, the thought that we have to debate in the U.S. Senate whether or not we are going to allow seniors the very basic right to use their money as they see fit is really just testimony to how far this administration is willing to go in trying to impose its will and its vision of socialized medicine on the American people. Socialized medicine, what Americans rejected in 1993, the administration is trying to, in incremental steps, reimpose on the American public.

Over the past few weeks I have received many letters, many phone calls and e-mails on this very subject. I would like to share one of these letters with my colleagues today. This comment came from a constituent of mine in Saint Paul, MN. The constituent wrote:

> By what right do you arrogate to yourself the right to determine the length of my life? Medicare could easily fall short of the necessary medical steps to preserve health and life. Remember, this will apply to you, too.

My fellow Minnesotan could not be more correct in the assessment of this provision which was tucked into the Balanced Budget act. It was tucked in there in the dark of the night, without debate and with little regard for the consequences and with the demand by the administration that it be included no matter what. It is unconscionable that the United States, the world's model of freedom and liberty, has now decided that senior citizens are somehow second-class citizens, that they are incapable of making their own choices when it comes to health care.

Opponents of the Freedom to Contract Act claim that this bill now will make it easier for doctors to force seniors to give up their Medicare rights and be charged ''the sky's the limit.'' They say that without this protection,

seniors will be overpaying for their medical care.

I give our Nation's physicians and our Nation's seniors a lot more credit than that. This bill does absolutely nothing to force seniors to opt out of the Medicare Program, nor does it implicitly encourage them to do so. It simply will give our seniors an additional choice in how they receive their health care services—an additional choice on how they receive their services. In fact, I believe increasing choices for seniors in the Medicare Program was probably one of the best things that came out of this year's Balanced Budget Act. The Medicare Beneficiary Freedom to Contract Act is just a logical extension of the Medicare Plus Choice Program that was created in the Balanced Budget Act.

I urge my colleagues to set aside the demagoguery and restore the rights of our senior citizens. They deserve our respect and they deserve the right to make their own choices. If we don't act on this bill before this session of this Congress ends, it will go into effect and then it will be very hard to restore this right to our seniors. So I am asking my colleagues, urging them, to join with us to make sure that we preserve the rights of our senior citizens to have an additional choice in how they decide on their health care.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I appreciate very much the time. I appreciate being joined by my friends in support of this Medicare Beneficiaries Freedom to Contract Act. Let me just review how we got where we are.

During the consideration of the balanced budget, Senator KYL put in a very simple amendment which simply said that you could have this choice that did allow for physicians to treat under a private contract in addition to Medicare. Unfortunately, the administration became adamant about it. I think they followed, as the Senator from Minnesota said, the idea of turning this back into a one-size-fits-all kind of federally controlled program. The President threatened to veto the entire budget package because of this, if this 2-year prohibition was not included. So, today I am still disappointed with the administration, with HCFA, with the President's opposition to this proposition.

We are going to continue to push for consideration of this issue before this Congress adjourns so we can eliminate this bottleneck, this thing which takes away the choice of senior citizens in their health care.

MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

Mr. KEMPTHORNE. Mr. President, I am pleased to rise this morning in support of S. 1194, the Medicare Beneficiary Freedom to Contract Act. This legislation is another step in our continuing effort to give the Nation's senior citizens something they have lacked for far too long—real choice in health care.

I believe we are fortunate that a provision added to this year's Balanced Budget Act has served to focus our attention on a very important and basic freedom. I'm talking about the freedom of individuals, regardless of age, to choose how they are going to spend their health care dollars. When the Senate first debated this issue, I wholeheartedly supported the idea of ''private contracting'' for two reasons. First, I heard from numerous Idahoans who feel they are losing their choice of doctors because of Medicare's overly bureaucratic method of operation. As more and more health care providers refuse to accept Medicare, senior citizens are finding they no longer have access to the providers they wish to see. Allowing private contracting will provide seniors the chance to maintain the patient-provider relationships which are so important to them.

Second, I support S. 1194 for an even more fundamental reason. I do not believe a nation, for which so many have sacrificed so much in the name of freedom, should tell senior citizens that they do not have the freedom to provide for themselves, even if they are perfectly able to do so. Many of our senior citizens are people who worked, and fought, during some of this century's most difficult times, yet current Medicare rules tell them we don't think they are capable of determining, for themselves, how to best meet their own health care needs. Mr. President, this implies that government bureaucrats don't feel those who survived the Great Depression and World War II, and helped make this Nation what it is today, are capable of understanding and meeting their own needs. What a ridiculous concept.

Would we tell food stamp recipients that they could not use their own money to buy food, even if they worked hard to gather the financial resources needed to feed themselves? Would we tell someone in subsidized housing that they may not use their own resources to move into a home which they could call their own? The answer to both these question is, of course, no. In fact, I would be willing to guess that anyone suggesting such an idea would be laughed right out of this Chamber. Yet, there are those who don't believe senior citizens should be allowed to provide, voluntarily, for their own health care needs.

Mr. President, the bill we are discussing this morning simply says that if you have the ability to take care of your own health care needs, and you wish to do so, you should be legally allowed to do so. Supporting it should simply be a matter of common sense.

I have heard from numerous Idahoans who tell me they want the freedom to decide whether or not to use Medicare to pay for health care services. I have heard from numerous health care providers in my State who sincerely want their patients to have that choice. I trust the senior citizens of Idaho. I believe they are more than capable of making a decision about how to pay for health care services, and should be given the option to make that choice for themselves.

The American people are intelligent. If you give them choices, they are certainly able to decide which option is in their best interest. During my tenure in the Senate, I have consistently worked to give Americans more choice, while reducing government intrusion in their lives. The Medicare Beneficiary Freedom to Contract Act accomplishes both of these goals, and I urge all of my colleagues to support it.

Mr. CAMPBELL. Mr. President, today I join my colleagues in supporting the Kyl-Archer ''Medicare Beneficiaries Freedom To Contract Act.''

When I first discovered that the version of this summer's Balanced Budget Act that was signed into law included such a drastic deviation from Congress' intent, which was to allow Medicare beneficiaries the choice to go outside the Medicare system for care, I was outraged. We agreed to ensure this freedom, not strangle it by kicking doctors out of the Medicare system for seeing Medicare patients on a private contract basis. By excluding physicians from Medicare for 2 years as a punishment for entering into a private contract, the law offers seniors a choice in one breath and takes it away in the next.

If beneficiaries choose to pay for care out of their own pocket, that is their right. In no way does that constitute a criminal act. It is not an appropriate role for the Federal Government to be telling people how they can spend the money in their wallet—we already do enough of that with their tax dollars.

The claims made for instituting such a restrictive law are unfounded. The assertion that seniors of significant means will be siphoned out of the system, creating an increased burden on the Medicare trust fund, makes several false assumptions. First, income and population statistics produced by the Social Security Administration indicate that nearly two-thirds of this country's over-65 population live at or near the poverty level, with less than 20 percent seniors earning more than $75,000 a year. Given that, it is doubtful that we'll see a wave of seniors rushing to contract privately and disrupting the Medicare system. Those same statistics also deflate the argument that droves of doctors will begin denying care unless patients agree to privately contract at a higher rate. The patients aren't there, leaving physicians strongly dependent—as they are now—on Medicare clients. Therefore, there is no threat of a two-tiered system of care, with only the wealthy having access to the best care. It is just not economically sound or feasible for a significant number of doctors to establish a ''new tier'' of medicine.

The concerns about rampant fraud and abuse resulting from private contracting seem to disregard some very compelling facts. For example, over the last 2 years, Congress has implemented strict penalties for Medicare fraud and abuse, including thousands of dollars in fines and jail time. We have seen people go to jail for committing Medicare fraud. I have medical professionals contacting me regularly because they are so fearful of inadvertently misbilling Medicare and winding up in jail or out of business. More importantly, however, Medicare beneficiaries are copied on all bills that Medicare pays for services they've received. If a doctor double-bills Medicare for services that a beneficiary has already paid for out of their pocket, that senior would be dialing Medicare's 1–800 fraud number faster than you or I could blink.

Finally, Senator KYL's bill would allow patients to terminate contracts at virtually anytime, which will force physicians who are interested in private contracting to offer services at reasonable and competitive rates. Consumers would finally be playing a role in the Medicare market.

Choice and competition have emerged as the most viable and fair solutions for saving the Medicare Program and ensuring quality, affordable healthcare for generations of Medicare beneficiaries to come. This bill embodies those very concepts.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

THE A-PLUS SAVINGS ACCOUNTS

Mr. TORRICELLI. Mr. President, within the next few days this Senate will vote upon a proposal that I have offered with Senator COVERDELL, S. 1113—A-plus savings accounts. It is a proposal I know that many Members of the Senate are considering for the first time. I take the floor today to ask them to look carefully at its many provisions.

Like many Members of my party, I have great reservation about the movement to vouchers in the various States and by the Federal Government. It has always been my concern that vouchers not only invite constitutional challenge, but inevitably results in a movement of resources from the public schools, where they are already too scarce, to private schools.

The issue in my mind is not to move resources from public to private schools, but to increase resources for all schools. That is why, although I differ with Senator COVERDELL and other Members of the Senate on vouchers, we have come together as Democrats and Republicans, provoucher and antivoucher Senators, on the issue of the A-plus savings accounts.

Let us look at the facts about these savings accounts.

First, there is not the use of public money. This is money that an individual or their employer or their labor union can put in a savings account for the education of a child in grade school or high school, therefore, there is not a constitutional issue and there is not a diversion issue of public educational resources to private schools.

Second, where does this money go? And who does it help? The Joint Committee on Taxation estimates that almost 75 percent of the money that will be placed in these accounts actually would go to public school students because although we are allowing the accounts to be used to support tuition at parochial schools or other private schools, it also would be available for ancillary activities of public school students.

Since 90 percent of American students go to public schools, these funds—available for computers, tutoring, after-school transportation—would, to a significant, indeed overwhelming extent, actually go to public school students.

This is the right program at the right time, bringing the right resources to the students most in need.

In many of our urban centers today, including in my own State of New Jersey—from Camden to Newark to Jersey City—if we lose our private schools, our parochial schools, we do not have the capacity in the public schools for those students. And many working-class, working-poor parents want this option. I do not know why we would deny it to them.

Critics have said, ''Well, this is only available to the rich.'' But in fact for a single taxpayer, we have put a ceiling of $95,000. It is estimated that 70 percent of all of these resources would go to families that earn under $70,000 a year.

An uncle can put $10 in an account every month for a favorite nephew or niece. A grandparent, at a birthday or Christmas, can put $100 or $200 in an account. A parent, from the time of birth, can put a few dollars away every month to ensure that their child is getting the high school or grade school education they want them to have.

What can be wrong with that, getting the entire family involved in saving for a child's education? But if the option is public school—which it is overwhelmingly in the United States; and understandably so—then these funds are available to give a quality public school education.

Sixty percent of all students in public schools in America today do not have a computer at home. Eighty-five percent of all minority students in the public schools do not have a computer at home.

An overwhelming majority of public school students cannot afford a tutor, even if they are having trouble with math or science. These accounts are available for that tutoring and for that equipment. It gives a new advantage to parents who want to get engaged in their child's education in the public schools.

For all of those reasons, I am asking, particularly members of my own party, to look once again at the Coverdell-Torricelli proposal for A-plus savings accounts. This escapes the central conflict over vouchers and strengthens both public and private education.

No Member of this body today, no matter how they feel about vouchers, can possibly argue—when the United States is now being ranked 15th out of 18 nations in the quality of math performance by our students; near last in science education—no one can defend the status quo. No Member can honestly believe that a chance to bring new resources, private resources, to middle-income families who want to get engaged in their own child's education is a bad idea.

We will, Mr. President, have a chance to obviously debate this at length when the bill is brought before the Senate. But here today, in anticipation of that debate, I wanted to ask Members of the Senate to use the time between this discussion and that debate to familiarize themselves with this proposal and the hope that we can genuinely have a good and bipartisan level of support in sending this bill, which has already passed the House, on to the President.

Mr. President, I yield the floor.

THE INTELLECTUAL ROOTS OF NATIVISM

Mr. BROWNBACK. Mr. President, I would like to highlight an article from the October 2 issue of the Wall Street Journal written by Tucker Carlson.

It is important to recognize the valuable contributions that immigrants make to this country. Groups that refuse to recognize that legal immigration makes a positive contribution to the productivity and vitality of our country ignore the history of our Nation and exploit irrational fears. Mr. Carlson has done an exemplary job of exploring the initiatives and history of such anti-immigration organizations.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 2, 1997]

THE INTELLECTUAL ROOTS OF NATIVISM

(By Tucker Carlson)

When the U.S. Commission on Immigration Reform issued its final report on Tuesday, Dan Stein, executive director of the Federation for American Immigration Reform, stood ready to comment. Responding to a recommendation that the U.S. citizenship

oath be modified to strike antiquated words like ''potentate,'' Mr. Stein told the Los Angeles Times, ''If the oath of [allegiance] is too hard for the immigrants to understand . . . we're admitting the wrong immigrants.''

In the debate over immigration policy, no single group has received more attention than FAIR, a Washington-based nonprofit that claims a membership of 70,000. For close to 20 years, in books, monographs, op-eds and thousands of newspaper stories, FAIR has made the case for tighter national borders. And while the group's goal seems clear enough—to curtail immigration into the U.S.—its ideology is harder to pin down. FAIR's supporters include both the conservative magazine National Review and former Colorado Gov. Richard Lamm, a Democrat; Pat Buchanan as well as Eugene McCarthy. Where does FAIR stand politically? It's hard to say, says Mr. Stein: ''Immigration's weird. It has weird politics.''

IN FAVOR OF INFANTICIDE

Certainly FAIR does. Consider the group's connection to Garrett Hardin, a University of California biologist who became moderately famous in the 1960s for his essay ''The Tragedy of the Commons,'' a polemic against population growth and Americans' ''freedom to breed.'' Mr. Hardin, now in his 80s, was for many years one of the more active members of FAIR's board of directors, writing and speaking extensively under the group's auspices. He is now a board member emeritus, and his ideas are still influential at FAIR; just this spring, Mr. Stein quoted ''noted immigration scholar and thinker Garrett Hardin'' in testimony before the Senate.

What are Garrett Hardin's ideas? ''Sending food to Ethiopia does more harm than good,'' he explained in a 1992 interview with Omni magazine. Giving starving Africans enough to eat, Mr. Hardin argued, will only ''encourage population growth.'' His views got less savory from there. In the same interview, the ''noted immigration scholar'' went on to criticize China's notoriously coercive population control programs on the grounds they are not strict enough. He also argued against reducing infant mortality in undeveloped nations and came out foursquare in favor of infanticide (''in the historical context,'' as the Omni reporter put it), which he declared ''an effective population control.''

''In all societies practicing infanticide,'' Mr. Hardin explained to the reporter, who happened to be five months pregnant at the time, ''the child is killed within minutes after birth, before bonding can occur.'' Not surprisingly, Mr. Hardin wasn't shy about his enthusiastically pro-choice views: ''A fetus is of so little value, there's no point in worrying about it.''

What does eliminating children have to do with immigration? According to Mr. Hardin, just about everything. ''Because widespread disease and famine no longer exist, we have to find another means to stop population increases,'' he explained. ''The quickest, easiest and most effective form of population control in the U.S., that I support wholeheartedly, is to end immigration.''

At FAIR, Mr. Hardin's views are considered well within the pale. Founded in 1979 by a Michigan ophthalmologist named John Tanton, FAIR has from its inception been heavily influenced by the now-discredited theories of Thomas Malthus, an 18th-century English clergyman who predicted that the world's food supply would soon fail to keep pace with its rising population. During the 1970s, Dr. Tanton, now FAIR's chairman, did his part to reduce world population by founding a local Planned parenthood chapter and running the group Zero Population Growth. With the birthrate of native-born Americans declining, however, Dr. Tanton says he soon realized that the key to population control was reducing immigration. Unless America's borders are sealed, Dr. Tanton explained to the Detroit Free Press this March, the country will be overrun with people ''defecating and creating garbage and looking for jobs.'' To this day, FAIR's ''guiding principles'' state that ''the United States should make greater efforts to encourage population control.'' Several months ago, the group organized a ''bicentennial event'' to commemorate Malthus's ''Essay on the Principle of Population.''

Mr. Stein, the organization's current executive director, doesn't deny that Malthusian fears of overpopulation are ''central'' to FAIR's mission. Nor does he flinch when confronted with Mr. Hardin's views of killing newborns. Instead, Mr. Stein defends Mr. Hardin by pointing out that his colleague has never supported ''involuntary, coercive infanticide.'' (As opposed to the voluntary kind?) As for the Chinese government's well-documented campaign of forced abortions and sterilization, Mr. Stein describes it as an ''international family-planning program.''

Perhaps most telling, Mr. Stein appears to embrace Mr. Hardin's long-standing support of eugenics. In his interview with Omni, Mr. Hardin expressed alarm about ''the next generation of breeders'' now reproducing uncontrollably ''in Third world countries.'' The problem, according to Mr. Hardin, is not simply that there are too many people in the world, but that there are too many of the wrong kind of people. As he put it: ''It would be better to encourage the breeding of more intelligent people rather than the less intelligent.'' Asked to comment on Mr. Hardin's statement, Mr. Stein doesn't even pause. ''Yeah, so what?'' he replies. ''What is your problem with that? Should we be subsidizing people with low IQs to have as many children as possible, and not subsidizing those with high ones?''

Several years ago FAIR was forced to defend itself against charges of racism when it was revealed that the organization had received more than $600,000 from the Pioneer Fund, a foundation established in 1937 to support ''research in heredity and eugenics.'' Mr. Stein did his best at the time to downplay Pioneer's nasty reputation. ''My job is to get every dime of Pioneer's money,'' he told a reporter in 1993. But an unpleasant odor remained.

FAIR also has repeatedly been accused of hostility toward Hispanics and the Catholic Church. Mr. Stein claims the charges are nothing more than ''orchestrated attacks from some of these fervent, out-of-control zealots on the so-called religious right.'' (And, he warned me, I had better not imply otherwise: ''I will call you at home and I'll give your wife my opinion of the article if I don't like it,'' he said heatedly.) But Mr. Stein does little to disprove his critics. In one widely quoted outburst, he suggested—that certain immigrant groups are engaged in ''competitive breeding.'' He told me: ''Certainly we would encourage people in other countries to have small families. Otherwise they'll all be coming here, because there's no room at the Vatican.''

There are reasonable critics of immigration, but Dan Stein is not one of them. Which makes it all the more puzzling that a number of otherwise sober-minded conservatives seem to be making common cause with Mr. Stein and FAIR. According to National Review editor John O'Sullivan, FAIR, ''until very recently, never saw the political right as sympathetic to the cause. That was an obvious error.'' An error Mr. O'Sullivan has done his best to correct: Over the past several years, National Review has touted FAIR's positions in its editorials and published several articles by FAIR employees.

'THESE CENTRAL AMERICANS'

FAIR itself has made a conscious play for the support of social conservatives, running ads that blame immigration for ''multiculturalism,'' ''multilingualism,'' ''increasing ethnic tension'' and ''middle-class flight.'' Mr. Stein claims that many immigrants are left-wing ideologues, making conservatives FAIR's logical allies. ''Immigrants don't come all church-loving, freedom-loving, God-fearing,'' he says. ''Some of them firmly believe in socialist or redistributionist ideas. Many of them hate America, hate everything the United States stands for. Talk to some of these Central Americans.''

Two years ago Insight, a magazine published by the conservative Washington Times, referred to ''the conservative Federation for American Immigration Reform.'' And last year Republican strategist Paul Weyrich allowed FAIR to co-produce more than 50 hour-long programs dealing with immigration for National Empowerment Television, his conservative network. Clearly, FAIR's overtures to the right are paying off. But do conservatives who embrace FAIR know all they should about the object of their affections?

EXECUTIVE SESSION

NOMINATION OF CHARLES J. SIRAGUSA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, the clerk will report the Executive Order No. 324.

The legislative clerk read the nomination of Charles J. Siragusa, of New York, to be U.S. district judge for the Western District of New York.

The Senate continued with the consideration of the nomination.

Mr. LEAHY. Mr. President, I note that we are soon going to vote on the nomination of Charles J. Siragusa to be a judge of the U.S. district court for the Western District of New York.

The judge has the highest rating possible from the ABA. He was unanimously reported by the Judiciary Committee. He was a prosecutor. I commend him and the others.

This morning the majority leader has decided to call up the nomination of Charles Siragusa to the U.S. District Court for the Western District of New York. I expect this rollcall vote to be much like the last seven in which a unanimous Senate approves a well-qualified judicial nomination.

As I stated, Judge Siragusa received the highest rating possible from the ABA. He was unanimously reported by the Judiciary Committee along with others who remain on the Senate calendar awaiting action. He is supported by Senators MOYNIHAN and D'AMATO.

Judge Siragusa served as an assistant district attorney for the Monroe County district attorney's office in Rochester, NY, for 15 years from 1977 to 1992 and is currently a judge on the New York State Supreme Court. He has been the recipient of numerous legal awards, including the 1996 Recognition

Award from the Monroe County Magistrates Association. He has served as a volunteer member of the Families and Friends of Murdered Children and Victims of Violence advisory board since 1995.

I congratulate Judge Siragusa, his wife and family on this day and look forward to his service on the U.S. district court.

But I would also note, we had time set aside for debate on this. And we continue to have judges who are held up silently, and then we cannot vote on them.

Margaret Morrow of California is an example of this. We have spent far more time on quorum calls this year than we have on any debate of Margaret Morrow, except that we find Senators who have press conferences saying that she should not be confirmed or could not be confirmed or will not be confirmed—but nobody wants to bring her nomination to a vote.

She, like the judge we will soon confirm, is an extraordinarily well-qualified nominee. She does have one difference. She is a woman. And I do not know why this woman, who has been the president of the California Bar Association, one of the most prestigious positions any lawyer has ever received, as well as the L.A. bar, why this woman is continuously blocked.

Frankly, I could find no other reason than her gender. And I think it is shocking. I think it is a shame.

While I am encouraged that the Senate is today proceeding with the confirmation of a judicial nominee, there remains no excuse for the Senate's delay with respect the more than 50 other judicial nominations sent by the President. The Senate should me moving more promptly to fill the vacancies plaguing the federal courts. Twenty-three confirmations in a year in which we have witnessed 115 vacancies is not fulfilling the Senate's constitutional responsibility.

At the end of Senator HATCH's first year chairing the Committee, 1995, the Senate adjourned having confirmed 58 judicial nominations and leaving only 49 vacancies. This year the Senate has confirmed less than half of the number confirmed in 1995 but will adjourn leaving almost twice as many judgeships vacant.

At the snail's pace that the Senate is proceeding with judicial nominations this year, we are not even keeping up with attrition. When Congress adjourned last year, there were 64 vacancies on the Federal bench. In the last 10 months, another 50 vacancies have occurred. Thus, after the confirmation of 23 judges in 10 months, there has been a net increase of 28 vacancies, an increase of almost 50 percent in the number of current Federal judicial vacancies.

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

I have commended Senator HATCH for scheduling 2 days of confirmation hearings for judicial nominees this week. Unfortunately, that brought to only eight the total number of confirmation hearings for judicial nominees held all year, not even one a month.

The Judiciary Committee still has pending before it over 30 nominees in need of a hearing from among the 73 nominations sent to the Senate by the President during this Congress. From the first day of this session of Congress, this committee has never had pending before it fewer than 20 judicial nominees for hearings. The committee's backlog had doubled to more than 40.

There is no excuse for the Judiciary Committee's delay in considering the nominations of such outstanding individuals as Professor William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, Ms. M. Margaret McKeown, and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been favorably reported last year. Judge Paez had a hearing last year but has been passed over so far this year. Professor Fletcher, Judge Paez and Ms. McKeown are all nominees for judicial emergency vacancies on the Ninth Circuit, as well.

The committee still has pending before it 10 nominees who were first nominated during the last Congress, including five who have been pending since 1995. Thus, while I am delighted that we are moving more promptly with respect to certain nominees, I remain concerned about all vacancies and all nominees.

Since no regular executive business Meeting of the Judiciary Committee was held this week and none has yet been noticed for next week, which may be our last before adjournment, the committee may not have an opportunity to report any of the 13 fine judicial nominees who participated in hearings this week or the nominations of Clarence Sundram or Judge Sonia Sotomayor or, for that matter, the nomination of Bill Lee to be Assistant Attorney General for the Civil Rights Division.

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

A good example of the continuing stall is the long-pending nomination of Margaret Morrow. The extremist attacks on Margaret Morrow are puzzling—not only to those of us in the Senate who know her record but to those who know her best in California, including many Republicans. They cannot fathom why a few Senators have decided to target someone as well-qualified and as moderate as she is.

Anthony Lewis asked the question in a column in The New York Times earlier this week: ''Why [are some] trying to frighten conservatives with talk of nonexistent liberal activist Clinton judges?'' Those who start a witch hunt, want to find a witch—even if they have to contort the facts and destroy a good person in the process. That seems to be what is going on with this nomination as opponents of this administration are seeking to construct a straw woman in the place of the real Margaret Morrow. She does not subscribe to an activist judicial philosophy and I am confident that as a district court judge would apply the law consistent with precedents established by the U.S. Supreme Court, the court of appeals and judicial precedent.

With respect to the issue of judicial activism, we have the nominee's views. She told the committee: ''The specific role of a trial judge is to apply the law as enacted by Congress and interpreted by the Supreme Court and courts of appeals. His or her role is not to 'make law.''' She also noted:

> Given the restrictions of the case and controversy requirement, and the limited nature of legal remedies available, the courts are ill equipped to resolve the broad problems facing our society, and should not undertake to do so. That is the job of the legislative and executive branches in our constitutional structure.

Margaret Morrow was the first woman president of the California Bar Association and also a past president of the Los Angeles County Bar Association. She is an exceptionally well-qualified nominee who is currently a partner at Arnold & Porter and has practiced for 23 years. She is supported by Los Angeles' Republican Mayor Richard Riordan and by Robert Bonner, the former head of DEA under a Republican administration. Representative JAMES ROGAN attended her second confirmation hearing to endorse her.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice of law and to making lawyers more responsive and responsible. Her good works should not be punished. Her public service ought not be grounds for delay. She does not deserve this treatment. This type of treatment will drive good people away from Government service.

The president of the Woman Lawyers Association of Los Angeles, the president of the Women's Legal Defense Fund, the president of the Los Angeles County Bar Association, the president of the National Conference of Women's

Bar Association and other distinguished attorneys from the Los Angeles area have all written the Senate in support of the nomination of Margaret Morrow. They write that: ''Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties.'' She ''is exactly the kind of person who should be appointed to such a position and held up as an example to young women across the country.'' I could not agree more.

This nomination has been pending since May 9, 1996. No one can blame President Clinton for the delay in filling this important judgeship. Within 4 months of Judge Gadbois' disability, the President had sent Margaret Morrow's name to the Senate. She had a confirmation hearing and was unanimously reported to the Senate by the Judiciary Committee in June 1996. This was one of a number of nominations caught in the election year shutdown and was not called up for Senate consideration during the rest of that year.

She was renominated on January 7, 1997, the first day of this session of Congress. She had her second confirmation hearing in March. She was then held off the judiciary agenda while she underwent rounds of written questions. When she was finally considered on June 12, she was again favorably reported with the support of Chairman HATCH. She has been left pending on the Senate Executive Calendar for more than 4 months and been passed over, again and again.

Senator HATCH noted in a Senate floor statement on September 29 that he continues to support the nomination of Margaret Morrow and that he will vote for her. He said:

> I have found her to be qualified and I will support her. Undoubtedly, there will be some who will not, but she deserved to have her vote on the floor. I have been assured by the majority leader that she will have her vote on the floor. I intend to argue for and on her behalf.

Yesterday Senators ASHCROFT and SESSIONS held a press conference in which they noted their opposition to this nomination. I am glad that the secret holds that had prevented the consideration of this nomination are now over and urge the majority leader to proceed to call up this nomination for a debate and vote without further delay. This is the U.S. Senate, once the greatest deliberative body in the world and the conscience of the Nation. We should proceed to debate this nomination and vote.

Every Senator is free to vote for or against a nominee. What I have not appreciated is the mysterious hold over nominations for months at a time. Now that the sources of the hold have come forward, the Senate should proceed to debate and vote.

I do not oppose a recorded vote on Margaret Morrow any more than I opposed a recorded vote on Frank J. Siragusa, or Algenon Marbley, or Katherine Sweeney Hayden, or Janet C. Hall, or Christopher Droney, or Joseph F. Bataillon, or Frank M. Hull, or Henry Harold Kennedy, Jr., or Merrick B. Garland. In fact, on the last seven roll call votes on judicial nominees preceded that this morning, there has been a cumulative total of one negative vote by a single Senator on one of those seven nominees. Six judges were confirmed by unanimous roll call votes and one was confirmed 98 to one.

Meanwhile, while the Senate fiddles, the people served by the District Court for the Central District of California continue to suffer the effects of this persistent vacancy, one of the dozens of judicial emergency vacancies being perpetuated around the country. This nomination has been held up so long that the vacancy has now extended to more than 18 months and is designated a judicial emergency vacancy by the Administrative Office of the United States Courts.

This is a district court with over 300 cases that have been pending for longer than three years and in which the time for disposing of criminal felony cases and the number of cases filed increased over the last year. Judges in this district handle approximately 400 cases a year, including somewhere between 40 and 50 criminal felony cases. Still this judicial vacancy is being perpetuated by the refusal to vote on this well-qualified nominee.

I fear that the nomination of Margaret Morrow has become a fund raising ploy for the extreme right wing. This past weekend we learned that a $1.4 million fund raising and lobbying effort is underway to try to perpetuate the judicial vacancy crisis and continue the partisan and ideological stall on Senate consideration of much-needed judges.

I understand that big donors are solicited with promises of intimate dinners with leading conservative elected and public figures closely involved with the judicial confirmation process and that Senators appear on a videotape being used as an integral part of this opposition effort.

Those pressing this effort complain about what they see as the failure of the U.S. Senate to block the appointment of judges to the Federal bench. The American people, litigants, prosecutors, and judges have just the opposite complaint—that the perpetuation of judicial vacancies is affecting the administration of justice and rendering our laws empty promises.

It is sad that this effort is premised on the slanted portrayal of decisions, many of which were decided by judges appointed by Republican Presidents. I have spoken before about the dangers of characterizing isolated decisions to stir up anger against the judiciary. Short-term monetary or political gain is not worth the price.

This fund raising campaign seems to extend back over the course of the year but has only become public with reports in the Los Angeles Times and New York Times over last weekend. Those who delight in taking credit for having killed, judicial nominees last year continue their misguided efforts to the detriment of effective law enforcement and civil justice. This extreme right-wing fund raising campaign to kill qualified judicial nominations is wrong.

Targeting such a well-qualified nominee as Margaret Morrow is an example of just how wrong this scheme is. I believe all would agree that it is time for the full Senate to debate this nomination and vote on it. I understand that Senator ASHCROFT welcomed such a debate at his press conference yesterday. I have looked forward to that debate for some time. I ask again, as I have done repeatedly over the last several months, why not now, why not today, why not this week?

I yield the floor.

Mr. MOYNIHAN. Mr. President, in a few moments the Senate will vote to confirm a most able candidate for U.S. District Judge for the Western District of New York. Charles Joseph Siragusa was western New York's most experienced prosecutor who became its most admired supreme court judge. We now have the opportunity to bring his considerable talents to the Federal bench.

I had the honor of recommending Judge Siragusa to President Clinton on May 14, 1997. He enjoys the full support of my friend and colleague, Senator D'AMATO, and the unanimous approval of the Committee on the Judiciary.

Might I note that my judicial screening panel interviewed more than 20 applicants to fill the vacancy that resulted when Judge Michael A. Telesca took senior status. There were, as one might have expected, many splendid candidates. However, Judge Charles J. Siragusa stood out.

Judge Siragusa has served with great distinction in the Seventh Judicial District. He was elected to the State supreme court in 1992, following 15 years as a prosecutor with the Monroe County district attorney's office. In that capacity he tried over 100 felonies and was involved in a number of significant criminal cases including the prosecution of Arthur J. Shawcross, a serial killer responsible for the deaths of 11 women. He received widespread recognition and praise for his work on that case.

A native of Rochester, Judge Siragusa was graduated from LeMoyne College in DeWitt, NY, in 1969. He received his law degree from Albany Law School in 1976 and has been a member of the New York State Bar since 1977.

Judge Charles J. Siragusa is a man of great intelligence and unwavering principle. I am confident that, upon confirmation, he will serve with honor and distinction.

Mr. HATCH. Mr. President, it is with great pleasure that I endorse the nomination of Charles Siragusa who has been nominated by President Clinton for the position of U.S. District Judge for the Western District of New York.

Judge Siragusa comes before the Senate with an already distinguished

record having served on the New York supreme court since 1993. In that position, he has presided over both civil cases and criminal cases. He is currently assigned full time to the criminal division.

Judge Siragusa is not only a seasoned jurist, but he is also an experienced trial lawyer. He has extensive litigation experience having first been an assistant district attorney and then later serving as a first assistant district attorney in the Monroe County district attorney office from 1977 to 1992. I am sure my colleagues will agree that he is well qualified for a position on the Federal bench for many reasons not the least of which because he is someone who has had the practical experience of having tried approximately 100 cases as lead trial counsel. I might add that 95 percent of those cases were jury trials and many of them involved homicides.

Judge Siragusa also brings the experience of having been a teacher of sixth graders and junior high school from 1969 to 1973, in Rochester, NY. I am sure that job taught him great patience—a skill that might come in handy someday on the Federal bench.

He is also active in his community. Judge Siragusa is a member of numerous organizations including the Jewish Community Center; the New York District Attorney Association; the Monroe County Bar; the Rochester Inn of Court; Jury Advisory Commission; and the Association Justices Supreme Court in New York.

Judge Siragusa graduated cum laude from LeMoyne College in 1969 having earned a bachelor of arts sociology, and his juris doctorate from Albany Law School in 1976.

He has two published writings, in addition to his other than judicial opinions—one entitled ''Prosecution of a Serial Killer;'' and the other being, ''View from the Bench'' that appeared in Rochesterian Magazine.

I would also like to add that Judge Siragusa's nomination might have been before the Senate sooner, but for the fact that when the Judiciary Committee first tried to schedule a hearing on his nomination my staff had a bit of trouble locating him. We later learned that he was in Aruba on his honeymoon. Congratulations, Judge Siragusa.

I am confident that Judge Siragusa will be a worthy addition to the bench of the Federal District Court in the Western District of New York. I am very pleased that the Senate has scheduled a vote on his nomination, which I am happy to support. He is also supported by Senator MOYNIHAN and Senator D'AMATO. I urge my colleagues to do the same.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, on the matter of the pending nomination, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Charles J. Siragusa, of New York, to be U.S. District Judge for the Western District of New York? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 286 Ex.]

YEAS—98

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

NOT VOTING—2

Coats	Harkin

The nomination was confirmed.

DISAPPROVAL ACT

The PRESIDING OFFICER. Under the previous order, the Senate now will proceed to the consideration of S. 1292, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1292) disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with an amendment on page 2, line 3, to strike ''97–15, 97–16.''

Mr. STEVENS. Mr. President, there are 10 hours, as I understand it, on this bill. I do not have any knowledge yet as to how much time we will take. I will give myself such time as I need in the beginning of this statement.

On October 6, the President impounded funds for 38 projects contained in the fiscal year 1998 military construction bill, which totaled $287 million. Let me first take a moment to review the merits of this bill.

Mr. President, in June, President Clinton reached a budget agreement with the bipartisan leadership of the Congress. That agreement provided for an increase of $2.6 billion for national defense over the amount the President had requested for the budget in the fiscal year 1998. The President's action on the military construction bill, in my judgment, reneges on the budget agreement that he reached with the Congress. Congress was given spending caps. We then allocated that within the appropriations process, and the Appropriations Committee presented the Senate with 13 appropriations bills consistent with the spirit, terms, and limits of the revised budget.

Mr. President, I state to the Senate, without any chance of being corrected, that the Senator from West Virginia and I have done our utmost to live within the terms of the budget agreement, although we didn't agree with it and we weren't present at the time it was made. Now, we have upheld the congressional commitment to the President. Simply stated, the President did not when he used the line-item veto on this bill.

After consultation with Senator BYRD, the committee held a hearing 3 weeks ago to evaluate the President's use of the line-item authority and review the status of these projects for military construction. We asked military witnesses from three services to testify. They told us there were valid requirements for each of these projects, Mr. President. They were mission-essential to the U.S. military. They also informed the Appropriations Committee that each of these projects was, in fact, executable during the coming fiscal year.

Now, these projects clearly did not meet the criteria intended by Congress to eliminate wasteful or unnecessary spending. Those were the tests under the line-item veto law. Instead, the President chose to cancel a project because of three criteria that were announced after the action taken by the President. First, he would veto a bill if it was not in the President's 1998 budget request and no design work had been initiated and it did not substantially contribute to the well-being and quality of life of the men and women in the armed services.

Senator BYRD is going to speak at length on this. He is an expert in this area, and I don't want to go into the area he will cover. It is very clear that that was not within the terms of the bill passed, the law that the President signed, which set forth the process for using the line-item veto. At our Appropriations Committee hearing, it was apparent that, in fact, some design work had been initiated on most of these projects—not all of them, but most of them.

The generals that were before us confirmed what many of us already knew.

The White House decision conflicted with the military needs of the Armed Forces. In every instance these projects were needed and desired by the military services. Since that time the administration has stated—and even today, the President has a message out today—that mistakes were made. The administration has indicated that it will support many of these projects. But so far it has not told the committee which ones, Mr. President. We have a criticism of this bill from the administration, but the administration vetoed 38 projects, and it says it made some mistakes. But it has not publicly said which ones.

It is my belief that we will be successful in our effort to overturn these line-item vetoes in this instance because the projects the President has attempted to eliminate are meritorious. They are sought by the Department of Defense and by the services involved in each instance, and they are within the budget agreement.

I want to go back and emphasize that, Mr. President. We had a budget presented to us by the President that was lower than many of us thought was necessary to meet our national needs. The President, in the budget agreement, agreed to that, and he agreed to an increase in defense spending. Our committee received no specification on what he thought that increase should be spent for. So we did what the Constitution gives us the right to do. We determined where the money would be allocated. None of these projects have been listed as being either wasteful or excessive spending. Again, almost all of them are in the 5-year plan, and those that were not in the 5-year plan were indicated to be necessary and ones that were needed by the military.

I believe that our military people, soldiers, sailors, marines, airmen, and Coast Guardsmen are the ones that are being shortchanged by the President's veto—not the officials in the Pentagon or the White House.

Let me tell you why I believe the President is reneging. If this line-item veto application, the application of that law to these projects, is sustained, we lose part of the increase that was in the budget agreement. This $287 million is no longer available for expenditure to meet military needs. It is a way for the administration to renege and not meet the goals that we sought for military spending. The President indicated some protected areas in the budget—areas that he wanted protected because of his priorities. Our committee has met every single one of those. We have not stood here and used a pen and taken them out. We have not used what would be a congressional line-item veto and said, no, we don't agree with you on this or that. We have not done that.

But in this instance, the use of the line-item veto reduces the amount that is available for defense spending for fiscal year 1998 by the amount of the application of the line-item veto.

I am differing with my good friend from West Virginia. Although for many years I opposed the line-item veto, I came to the conclusion that because we needed additional impetus behind our efforts to bring about a balanced budget, I indicated I would support the line-item veto—and, as a matter of fact, due to circumstances that developed, I was the chairman of the committee and the chairman of the Senate side of the conference on the Line-Item Veto Act. I supported it because I believed it should be used for the stated purpose to eliminate wasteful and excessive spending, and only to eliminate wasteful and unnecessary spending—not to be used as the display of Presidential executive or political power.

I urge the Senate to support this bill that is before us. We have conferred with all of those involved in the projects. I state that all of the projects except 2 that were in the President's 38 are in this bill. There are two not in there at the request of the Senators involved. Those two, however, are in the House bill.

COMMITTEE AMENDMENT WITHDRAWN

Mr. STEVENS. Just one last word about this procedure. This bill is not subject to amendment in the sense of adding anything to it. I state now that we will not offer the Senate's Appropriations Committee amendment to this bill, and I ask it be withdrawn at this time.

The PRESIDING OFFICER (Mr. HUTCHINSON). If there is no objection, the committee amendment is withdrawn.

The committee amendment was withdrawn.

Mr. STEVENS. Mr. President, that means that there are two projects that are not in this bill that are in the House bill. If the Senate passes this bill—and I seriously urge that it do so—we will go to conference, and the only matters that can be considered in the conference are those two projects. If the House passes the bill—and I presume it will—which has all of the 38 projects, and we pass this one which has 36 projects, the only 2 things that can be discussed in that conference are the 2 projects. And we will bring the conference report back before the Congress very quickly, I believe.

But, Mr. President, this bill goes beyond the question of what should normally happen under the Line-Item Veto Act concerning actions of a President. This bill pertains to projects that were eliminated at a time when there was an agreement entered into by the leadership of the conference and the Presidency on the level of spending in several discrete categories. From the point of view of this Senator, the most important one was the agreement on the level of spending for the Department of Defense. If this bill does not become law, $287 million of the amount we thought would be available to meet our needs of the Department of Defense will not be there. That $287 million is part of the most vital part of our spending. It is spending for facilities for our people to live in and to work in. I can't think of anything that is more essential right now than to try to maintain our efforts to modernize our bases, modernize our facilities, and to assure that we maintain the quality of life for the military by doing so.

Mr. President, I urge the Senate to stand together with the House to assure that the President—and really the Presidency—lives up to the bargain that was made with the Congress. I do not speak of the President in a personal vein. I think he relied on the advice that was given him. I do object to the use of the concept of the criteria that was announced by the White House. I think Senator MCCAIN will speak about that.

Senator MCCAIN and I are in agreement in terms of what the White House should have done when the law was passed. It should have announced then the criteria the President and the administration would use to review individual bills and then match every bill up against that type of criteria. That was not done, Mr. President.

I believe this bill should become law.

I thank the Chair.

I yield to my good friend from West Virginia.

I believe the Senator from West Virginia controls 5 hours; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I yield myself such time as I may require.

Mr. President, I am looking at the memorandum that is being distributed by the Executive Office of the President, the Office of Management and Budget, dated October 30, 1997.

It carries the heading ''Statement of Administration Policy.''

I will read it.

This statement of administration policy provides the administration's views on S. 1292, a bill disapproving the cancellations transmitted by the President on October 6, 1997.

S. 1292 would disapprove 34 of the 38 projects that the President canceled from the fiscal year 1998 Military Construction Appropriations Act. The administration strongly opposes this disapproval bill. If it originally was presented to the President in its current form, the President would veto the bill.

The President carefully reviewed the 145 projects that Congress funded that were not included in the fiscal year 1998 budget. The President used his authority responsibly to cancel projects that were not requested in the budget that would not substantially improve the quality of life of the military service members and their families and that would not begin construction in 1998 because the Defense Department reported that no architectural and engineering design work had been done. The President's action saves $287 million in budget authority in 1998.

While we strongly oppose S. 1292, we are committed to working with Congress to restore funding for those projects that were canceled as a result of the data provided by the Department of Defense that was out of date.

I have read the statement of administration policy in its entirety.

Let me take a further look at this sentence which appears in the memorandum. ''The President used his authority responsibly to cancel projects that were not requested in the budget.''

Mr. President, I don't know of any authority anywhere engraved in stone or bronze or in granite that gives the President the authority to cancel projects that were not requested in his budget. Of course, he did it. There is no question about that. But I don't understand this statement; namely, ''The President used his authority responsibly to cancel projects that were not requested in the budget.''

Mr. President, we don't live under a king in this country. And I don't propose ever to live under a king. I have been in this Congress now—I suppose I am the dean of the entire Congress, unless Mr. YATES in the other body is, who served before I came to the House of Representatives. But he voluntarily terminated his service over there for a while. He ran for the U.S. Senate. He ran against Senator Dirksen, I believe, and lost.

But, in any event, for the benefit of those who may or may not be interested, I have been in Congress quite a while. So I am the dean of both Houses. I will say it that way.

Also, I am 29,200 days old today, October 30. This is not my birthday. It is just that I was born 29,200 days ago.

I have taken an oath to uphold—to ''support and defend.'' Those are the words, ''support and defend'' the Constitution. I have taken an oath many times to support and defend the Constitution of the United States—many times, beginning with my service in the State Legislature of West Virginia 51 years ago. And I have never yet found, and I can't find the authority to which this memorandum from the Executive Office of the President, Office of Management and Budget refers, I can't find the authority by which the President can cancel projects solely because they were not requested in the budget. I don't find that in the Constitution. I don't find that in the rules of the Senate. I don't find it in even in the Line-Item Veto Act. I don't find that criterion in there. And all who may doubt, let them take a look at the Line-Item Veto Act, against which I voted. But it is not in there.

So much for that. It is just as I expected when I stood on this floor on several occasions and talked ad nauseam with respect to my opposition to the line-item veto.

I yet cannot understand whatever got into the heads of the educated, intelligent men and women which would cause them to voluntarily cede to any President—not just this one. I don't have anything against this President in that particular. He wanted the line-item veto. But so did his predecessor, and so did his predecessor, and so did his predecessor, and so did his, going all the way back to President Taft. Taft didn't want it. George Washington didn't think much of it.

But anyhow, here it is, the line-item veto. And I said, and so did a lot of my colleagues, the White House, not necessarily the President but the people who work under him, will expand this authority.

I don't know who recommended to the President that he veto these items. One of the items happens to be for West Virginia. But let me hasten to say I would not negotiate with this President or any other President to keep him from vetoing that item for West Virginia. I am not going to negotiate with him to keep something for West Virginia. That is important to me, but more important to me than that is the constitutional system of separation of powers and checks and balances, and that is what we endangered in passing this illegitimate end run around the Constitution of the United States.

We handed it to the President just as the Roman Senate handed to Caesar and handed to Sulla the control over the purse. The Roman Senate ceded voluntarily, handed to the dictators, Sulla, Caesar—they made Caesar dictator for 10 years and then turned right around and made him dictator for life. But they said, ''Here it is, the power of the purse.'' The Roman Senate had complete power over the public purse. But when the Roman Senate ceded to the dictators and later to the emperors the power over the purse, they gave away the Senate's check on the executive power. They gave away the Senate's check on executive tyranny. And that is what we have done.

Let me make clear to all Senators that in voting on this resolution today they are not voting for or against the line-item veto. I am against the line item veto. We all know that. Everybody knows that. If they don't, they ought to have their head examined. But this vote today is not a vote for or against the line-item veto. I hope all Senators will understand that. I hope all Senators' offices will understand that. I hope all Senators' aides will understand that. And I hope that the press will understand that.

This is not a vote for or against the line-item veto. This is a vote for or against the disapproval resolution. A Senator can be very much for the line-item veto, yet feel that the President exercised the line-item veto in this case in an arbitrary and unfair manner.

That is what we are voting on today, whether or not we feel that the line-item veto was exercised in an arbitrary manner or whether it had a genuine basis, whether it ought to be upheld in this instance; whether or not these items that are in the resolution should go back to the President, hopefully for his signature this time.

In this case, Senators are only voting whether or not you want to send these particular items that were line-item vetoed back to the President a second time. That is all. I happen to think that the line-item veto was used in this instance in a very arbitrary manner.

I think the administration took this action without ample forethought, without a very careful analysis of the items and whether or not they, indeed, did fit into the criteria. I think the administration acted in an arbitrary manner, and they have said that they acted on incorrect data from the Defense Department.

I hope all Senators will understand that they can vote for this resolution today and still be for the line-item veto. It doesn't make any difference as to what their position is on the line-item veto. The fact that they may vote for the disapproval resolution does not mean they are for the line-item veto. It doesn't mean that at all. It should not be taken as an indication that Senators are for or against the line-item veto.

I hope all Senators will vote for the disapproval resolution. Senator STEVENS, as chairman of the Appropriations Committee, conducted a hearing. It was well attended by Senators. And it thoroughly exposed the vulnerability of the administration's position. The Department of Defense witnesses did not uphold the administration in the information that it sent abroad in the land to the effect that this item or that item or some other item was not on the Defense Department's 5-year plan.

Now, I hope that the Senate and House will send this resolution to the President. I hope it will be supported overwhelmingly. And, of course, the President will veto it. He has said he would. But let him veto it. That is an old scarecrow. That is a scare word. It doesn't scare everybody, but it may scare some people. He will veto it. So what. Go ahead. Veto it. Maybe the Senate and House will override the veto. They may not. But in that instance things will be operating according to the Constitution.

Now, here it says in the final paragraph, ''While we''—I do not know who ''we'' is. That is the editorial pronoun ''we'' ''While we strongly oppose S. 1292, we are committed to working with Congress to restore funding for those projects that were canceled as a result of the data provided by the Department of Defense that was out of date.''

What is the matter with the administration? Why don't they make sure of what they are doing? They should have acted cautiously. They should have acted carefully because they are vulnerable on this. They have been exposed to have acted, I won't say with malice aforethought but certainly without careful aforethought. It is not to their credit. I don't happen to believe that the Sun rises in the west, Mr. President. It has never risen in the west a single day of the 29,200 days I have been on this Earth. It rises in the east.

So I am not going to bow down to the west—to the western end of Constitution Avenue. I bow down to the Constitution. I took an oath to support and defend that Constitution. I am not above amending the Constitution. The forefathers saw a possible need to

amend it and they made provision for that. But I am never going to join in dismantling the structure, the constitutional system of separation of powers and checks and balances. Count me out.

Mr. President, it is with the dispassionate eye of a history student, it is with that kind of dispassionate eye that I have tried to view this subject matter. Everything I have said about this subject matter has come true. It comes with sadness, when we find that in the OMB's explanation of the President's veto it resorts to a statement to the effect that the President has authority responsibly to cancel projects that were not requested in the budget.

But to me that statement demonstrates a superabundance of inflated arrogance. It demonstrates a superabundance of inflated arrogance for a President of the United States, any President—I am not just talking about this one—to feel that he has a right, and the power and the authority—apparently he does have the raw power now that Congress unwittingly gave him the line- item veto—to take the position that if it isn't in his budget, he will veto it.

That is a supremely inflated arrogance, to assume that if it isn't in the budget, the President of the United States shall strike it out. ''Upon what meat [does] this our Caesar feed?'' When an administration arrogates to itself the sole determination that items that are in the President's budget are sacrosanct but those that may be added by the directly elected representatives of the American people are negotiable, and they are vetoable—this is plain, bloated arrogance.

So, as a history student I have studied the practices and the customs and the traditions of the U.S. Senate during its over two centuries of existence, and I believe I can say with some authority that today is a landmark day in the Senate's history. For over 200 years the Senate has exercised its constitutional authority to write and pass the laws of the land. But today that tradition will be momentarily set aside as we consider legislation that asks—yes, asks the President to rethink his decision to erase provisions from a bill passed by Congress and signed into law by that same President. Today the Senate completes the abdication of legislative power that it began last spring when it adopted the conference report on the Line-Item Veto Act. The Senate acted upon the conference report on March 27, 1996. The Senate had originally passed the Line-Item Veto Act a year and 4 days previous to that, on March 23rd, 1995. Those are the two dark days in the constitutional history of this country.

I would like to take a few moments to impress upon my colleagues the significance of today's vote and to implore them to reconsider the misguided course that they embarked upon a year-and-a-half ago. But in so doing, let me say again, your vote today is not a vote for or against the line-item veto. But I do think it's good for us to look back. Lot's wife looked back and she was turned into a pillar of salt, but Senators will not be turned into a pillar of salt. I think it's good for us to look back and have an opportunity to see where we have erred. We all need to look back once in a while and see where we made a mistake, where we left the straight path. And maybe we can find a way to mend ourselves in the future.

So I begin my discussion, as always, with the Constitution of the United States of America. Any discussion of the line-item veto, indeed any discussion of the Federal Government, properly begins with the Constitution of the United States of America. And for those who may be watching the Senate, here it is—right out of my shirt pocket. Here it is: The Constitution of the United States of America. It cost me 15 cents when I first purchased it from the Government Printing Office. I think it's about $1.75 today, but it is worth every penny of it.

I begin my discussion with that Constitution, as any consideration of the Federal Government should begin. For the Constitution is not some musty document expressing abstract concepts, a quaint if antiquated relic which only a few high school civics instructors deign to read.

The Constitution is the users' manual of the Federal Government. It specifies how the branches of Government function, how they interact, how their powers overlap, and yet those powers are separated. It explains how the framers heeded the warnings set out in the Federalist Papers that ''[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny.''

The solution that the framers hit upon was to divide powers between and among three equal and distinct branches of government. It is a marvelous, marvelous document. One, in my opinion, cannot truly understand the Constitution of the United States without also understanding the history of the ancient Romans, without understanding the history of England, and without understanding the American colonial experience, and without reading the Federalist Papers, in other words, without having a thorough grasp of the roots of the Constitution that lead back into the misty centuries.

The solution that the framers hit upon was to divide powers between and among three equal and distinct branches of government. The Constitution sets forth a clear separation of powers between and among these three branches. Article I specifies that all—all—let's give what I say here 100 percent authenticity. I won't risk my memory.

Abiyataka was the nickname of Artaxerxes II, of Persia. His memory was so fabulous and outstanding that he was given the nickname Abiyataka. So I won't depend on memory. I'll read it from the Constitution, so it has to be authentic.

> Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article II, by contrast—Article II, by contrast—let's be sure that it's authentic also, states in Section 1:

> The executive Power shall be vested in a President of the United States of America.

There it is. And one of the key functions of the President is to, ''take Care that the Laws be faithfully executed.'' It's a matter of some bemusement to me, to think that the Constitution mandates that the President is to take care that the laws be faithfully executed and yet Congress passed the Line-Item Veto Act that allows the President to sign an appropriation bill into law and to not faithfully execute that law which he has just signed, but, instead, to turn right around and unilaterally repeal it, amend it, cancel or rescind this item or that item. Is that a faithful execution of the laws? The framers could not have made their intentions any plainer. Congress has the job of passing laws. The President has the job of executing them.

What are the legislative powers ''herein granted'' that the Constitution assigns to Congress? Article I lists a number of these powers: they run the gamut from the power to ''lay and collect taxes'' to the power to ''fix the standard of Weights and Measures.'' Article I also takes great care to spell out in clear and precise language the process by which Congress is to make laws. The most important language is contained in the so-called ''Presentment Clause'' of the Constitution—Article I, section 7, clause 2—which I will accordingly quote at length. ''Every bill,'' not just some bills, not just a few bills:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, [not maybe, not may—shall; not might—shall] before it become a Law, be presented to the President of the United States; If he approve he shall sign it. . .

It doesn't say he may sign it. He shall sign it if he approve.

> . . . but, if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law.
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> * * * * *
>
> If any Bill shall not be returned by the President within 10 Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

That is from the Constitution of the United States.

The Presentment Clause, then, offers the President three mutually exclusive alternatives in considering a bill passed by both houses of Congress: He may ''sign it,'' he may ''return it with his Objections'' to Congress, which may then pass the measure into law by a two-thirds vote of both Houses; or he may choose not to return the bill, whereupon ''the Same shall be Law,'' unless Congress has adjourned before the bill's 10-day return limit has expired. So, whatever path the President chooses, he is compelled to consider it. And, by ''it,'' the Constitution means the entire bill as passed by Congress in its entirety; not just parts of it.

But, in defiance of the Presentment Clause, the Line-Item Veto Act creates a fourth option for the President. Under the Act, the President may take any bill ''that has been signed into law'' within the past 5 days and he may cancel—I am reading now, quoting from the Line-Item Veto Act, ''. . . cancel in whole (1) any dollar amount of discretionary budget authority; (2) any item of new direct spending; or (3) any limited tax benefit. . . .''

The 5-day provision is a figleaf designed to conceal the measure's brazen violation of the presentment clause. The drafters of the Line-Item Veto Act knew that they could not explicitly authorize the President to alter a bill passed by Congress before signing it, because to do so would violate the presentment clause's mandate that he send or return each bill in its entirety.

Thus, the act inserts a gratuitous pause of up to 5 days between the President's signing a bill and then canceling certain items in the bill that he just signed. There can be 100 items in that bill, and he can strike out 99 of them. He has 5 days in which to do it. He can strike out 100 the first day, the second day strike out another 100, the third day strike out another 100, the next day strike out 100, the next day strike out 99. He already signed it into law. It is his little plaything then to do whatever he wants.

Although the conference report justifies the 5-day allowance as giving the administration sufficient time to provide Congress with ''all supporting material'' justifying any cancellation, the report makes clear its intention ''that the President's cancellations be made as soon as possible.''

Nor should it be forgotten that while the President may take up to 5 days to cancel an item, he need not wait that long. He is free, free, free to cancel items the next second after he signs the bill into law, and he remains free to cancel items the next second after he signs the bill into law, and then he remains free to continue to do so for the next 119 hours and 59 minutes. He has 120 hours.

I hope the High Court will say the presentment clause is not so easily evaded. The Supreme Court acknowledged the importance of strict adherence to the Constitution's procedural mandates when it declared that ''the prescription for legislative action in article I, sections 1 and 7, represents the Framers' decision that the legislative power of the Federal government be exercised in accord with a single, finely wrought and exhaustively considered, procedure . . . With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found''—this is the Supreme Court of the United States speaking—''we have not yet found a better way to preserve freedom than by making the exercise of power subject to carefully crafted restraints spelled out''—where?—''in the Constitution.''

That is what this line-item veto is all about. It is not about money, really. It is not about reducing the deficits. Fie upon such reasoning. It is just window dressing. It is not about reducing the budgets. It is not about balancing the budget. It is all about power. Where will the power over the purse lie? When it lies here, the power of the people is protected, and as long as that power over the purse is vested in the Congress, the people's freedoms are secure.

Let's see what this Court says, again. This bears repeating. I am quoting from the Court's position itself:

> The prescription for legislative action in article I, sections 1 and 7, represents the Framers' decision that the legislative power of the Federal government be exercised in accord with a single, finely wrought and exhaustively considered, procedure . . . With all of the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

Accordingly, it is not enough that the President may wait up to 5 days after signing a bill before he retroactively violates the presentment clause. The violation is just as egregious as if the President had crossed out the items he disliked before signing the bill into law.

Supporters of the line-item veto argue that the veto complies fully with the presentment clause. Since the veto applies to bills that have already been enacted into law in compliance with the presentment clause, the supporters of the line-item veto say, and since the requirements of the presentment clause are fulfilled when the President signs the measure into law, the Constitution cannot have been violated.

Well, even, Mr. President, if we accept this syllogism, it follows that the act, by empowering the President to rewrite certain laws, to repeal certain laws, to amend certain laws— grants the President the most basic of Congress' legislative powers; namely, the power to make laws.

The act defines the President's cancellation authority as, alternately ''with respect to any dollar amount of discretionary budget authority, to rescind''—to rescind—or, with respect to any item of new direct spending or any limited tax benefit, to prevent ''from having legal force or effect.'' As this definition indicates, ''cancellation'' is but another word for ''repeal.'' A rose by any other name smells just as sweet.

So cancellation is but another word for repeal and, functionally, what the President is doing when he cancels certain parts of the law is repealing—unilaterally repealing—those same acts, those same parts for, if as veto advocates argue, only bills that have been previously, albeit recently, passed into law are subject to the line-item veto, then those same bills, like all other laws, may only be repealed by legislative action pursuant, again, to the presentment clause. After all, as the Supreme Court has recognized, ''[a]mendment and repeal of statutes, no less than enactment, must conform with Article I.''

I repeat, as the Supreme Court has recognized:

> [A]mendment and repeal of statutes, no less than enactment, must conform with Article I.

The line-item veto advocates cannot have it both ways. Either the Line-Item Veto Act, as its very title indicates, gives the President the authority to alter a bill passed by Congress by effectively signing only certain parts of the bill into law, or the act allows the President to unilaterally repeal portions of an existing law. In either event, the act permits the President to encroach upon the legislative powers assigned to Congress and to Congress alone, by bypassing the procedures set forth in the presentment clause.

Mr. President, I hope that I have impressed upon my colleagues, those who are listening, that the line-item veto offends the most clear and incontrovertible requirements of the Constitution. But if that isn't enough to sway my colleagues, let me point out that granting the President line-item veto power is not just unconstitutional, it is also bad policy. If anyone doubts what I am saying, and lest I be accused of forgetting the pretext for my speech today, let us consider the disapproval resolution before us.

The disapproval bill is but a small attempt to repair the damage wrought by the President's misguided cancellations of 38 projects in the fiscal year 1998 military construction appropriations bill. A number of my colleagues have criticized those same cancellations: ''arbitrary,'' ''capricious,'' ''a raw abuse of political power.'' These are the words of those who voted for the line-item veto. Those who voted for the line-item veto now say that the President's exercise of the political tool which they handed to him, now they accuse him of being ''arbitrary,'' ''capricious,'' ''it was raw abuse of political power.''

Such criticisms are, of course, absolutely correct. There seems to be little logic underlying the President's cancellations. What logic can be found is so flawed as to scarcely warrant a response. I repeat, for example, the White House stated that it only vetoed projects that were not ''executable,''

meaning that construction could not begin in fiscal year 1998, but in truth, every one of the 38 vetoed projects was eligible for construction in fiscal year 1998.

With regard to the West Virginia project, the design contract with ZMM, Inc., of Charleston, West Virginia was signed on August 29, 1997. Completion of the design contract is due in April 1998, and a construction contract could be let in the May–June timeframe.

An amount of $965,214.39 has been obligated and an amount of $44,967.61 has been expended against the design contract. So clearly, the design work is underway and the project is executable in the current fiscal year.

The White House also said that it only considered items that were not included in the President's fiscal year 1998 budget request. How arrogant! How arrogant! ''Upon what meat [does] this our [little] Caesar feed?'' Never mind that the Senate was careful to include projects that were already in the Department of Defense's 5-year plan.

Never mind that the Senate moved up projects that were considered urgent or particularly meritorious, or that were necessary to remedy oversights in the Presidential budget that would have deprived our Armed Forces of needed quality-of-life improvements or denied funding to important Guard and Reserve projects.

Never mind the many previous occasions on which Congress has safeguarded the preparedness and well-being of the Armed Forces by funding projects that various Presidents overlooked or shortchanged.

Now, the rules have changed, and congressionally backed projects are targets for the Presidential blunderbuss that is the line-item veto. They are targets for his blunderbuss of the line-item veto if they are not in his budget.

It is difficult for me to overstate my anger at the rank arrogance of the White House in relegating congressionally backed projects to such harsh scrutiny. Need I remind the administration that it was Congress that in 1921 assigned the Executive the task of submitting annual budget proposals? It was Congress that in 1921 assigned the Executive the task of submitting annual budget proposals. Need I also point out that those proposals are, by law, not binding and that Congress remains free to exercise its ''power of the purse'' however it sees fit? And so ''lay on, Macduff.'' It is the Congress that retains the freedom to exercise its power of the purse however it sees fit.

My anger is not directed at William Jefferson Clinton. He is merely exercising the power that we—we—in our weak moments gave him. The ultimate blame lies here and across the corridor to the other end of the Capitol. The ultimate blame lies here, here in this Chamber, which gave away a portion of its most important power, with no strings attached.

And I quoted upon the occasion when the Senate passed this ill-formed, deformed monstrosity, I quoted upon that occasion the words of Aaron Burr, who in 1805 said that if the Constitution be destined ever to be destroyed, ''its expiring agonies will be witnessed on this floor.'' And I said at the time that Burr's prophecy was being fulfilled.

So the ultimate blame lies here, which gave away a portion of its most important power, with no strings attached. Here it is, Mr. President. We witnessed the expiring agonies of the Constitution on the floor, as Burr said we would, when we passed the Line-Item Veto Act.

We had an opportunity to retrieve our honor and our commitment to our forefathers and our promises to our children at the time the conference report came here. But the Senate again stabbed itself in its back, and the expiring agonies of the Constitution were witnessed on this floor.

''Didn't we tell the President how the line-item veto should be used?'' some may protest. Yes, we did. But the restrictions we placed on the line-item veto were so vague and feeble as to give the President virtually unlimited cancellation authority.

The Line-Item Veto Act states tautologically that any veto must ''reduce the Federal budget deficit''—a requirement that any cancellation of a spending measure or tax benefit would presumably meet. The act also insists that any cancellation must ''not impair essential Government functions'' or ''harm the national interest.''

Well, what are ''essential Government functions''? How should ''the national interest'' be protected? Those answers must rest with the President, for the act provides little guidance—the act provides little guidance.

Moreover, even if the President determines that all three criteria have been met, he is still free to decide not to effect a cancellation. The act says only that ''the President may'' cancel certain items meeting those criteria.

Mr. President, my colleagues protest that the President's cancellations are arbitrary and capricious. To this I respond: Of course they are, because we gave the President the authority to be arbitrary and capricious.

And so let us not now, at this late moment—those of us who voted for the Line-Item Veto Act—let us not heap obloquy and scorn and condemnation and criticisms and castigations and imprecations upon the President because he is being ''arbitrary'' and ''capricious.''

We have given the President the power to strike any item he pleases and for any reason he pleases. He can say it was not in his budget. If he does not have any other reason, he can say, ''Well, it wasn't in my budget.'' Not according to the act, but he can do it. He has done it.

And who is to blame? We have only ourselves to blame. By passing the line-item veto, we have deprived Congress of an effective say in which projects will be funded, we have denied ourselves the ability, which we exercised so often and so successfully in past budget cycles, to correct flaws or oversights in the President's budget proposal.

In past years, Congress repeatedly ensured that essential defense projects were funded at the appropriate levels. It was Congress that insisted on adequate funding for the stealth fighter. It was Congress that insisted on the funding for the Osprey helicopter. It was Congress that insisted on adequate funding for the C–130 aircraft, and countless other valuable projects that the administration at the time opposed.

It is no exaggeration to say that this country's defense capabilities would be significantly weakened today if not for Congress' vigilance and dedication in the fulfillment of its appropriations duties.

Now, however, congressional vigilance is subject to indiscriminate line-item vetoes. No longer can Congress ensure proper investments in this country's defense and infrastructure, thus, safeguarding the present and future well-being of all Americans.

The line-item veto has created a new order in which Members of Congress must resort to ''disapproval measures'' to restore funding that they already approved and that the President already signed into law, which under the Constitution would indicate that he had already approved the items. The Constitution says, if he approves, he shall sign it. And he signed it.

Today is a black day for this institution whose Members must prostrate themselves on bended knee before the President and ask him—ask him—to do what the Constitution requires: To respect and enforce and execute, faithfully execute, the laws passed by Congress.

But this is also a black day for the Nation which now finds that its single most representative institution no longer possesses unqualified authority to make the law. That is the legislative branch.

As Members of Congress, we represent the people of this great country. By abdicating a portion of our responsibility to pass laws—that is exactly what we did—we have denied ourselves the ability to represent those people effectively.

I apologize if my words today have seemed angry or vituperative. I apologize if my vehemence has offended any of my colleagues. I do not mean to provoke partisan dispute or internal dissent. I only wish to ask my colleagues to consider, as they ponder their vote on the disapproval bill before us—and go ahead vote as they wish on the disapproval bill; that is not an indication of whether they favor of disfavor the line-item veto—but they should ponder whether the Nation ought to continue down the shadowy trail that it embarked upon when we passed the Line-Item Veto Act.

I pray that before we blunder too far down this misguided path, we will retrace our steps and return to the route laid out by the framers, the path that was lighted by the clear light of the Constitution.

The President says, ''We'll say to any Member, we'll be happy to negotiate with you about your item.''

''We might be able to work it out so the President won't veto it.''

Senators, do not do it. Do not act to legitimize this legislation. Do not act to legitimize this process by which we have, in part, emasculated the Constitution, the constitutional system with its checks and balances and separation of powers.

Do not negotiate for a moment, because when you do, you are negotiating with respect to the Constitution, you are saying, ''Well, I'll negotiate with you. You can go ahead and line item the item out, but maybe we can work out something.'' I say that when one negotiates under those circumstances, he is negotiating something that the Constitution is pretty clear about, and that is the checks and balances and separation of powers.

The Constitution is not to be negotiated. And I, for one, will not negotiate to save any item for West Virginia. I will not negotiate. I will negotiate with other Members until we are able to work out language, compromise language, in a bill, dealing with a matter, but when it comes to negotiating in order to keep the President from wielding his dreadful line-item veto pen, that's not for me.

When we took it upon ourselves to correct some of the framers' mistakes by ignoring the clear language of the Constitution, we did not just display a breathtaking contempt for the rule of law and the principle of separation of powers; we also cast aside our own responsibility as Members of Congress to act as a check upon the executive branch, and we there and then deprived ourselves and deprived the people that we represent of the ability to ensure that the power of the purse is exercised in the best interests of the Nation.

I yield the floor.

Mr. STEVENS. Mr. President, I ask unanimous consent that the following Senators be added as original cosponsors: Senator SHELBY, Senator HAGEL, Senator MIKULSKI, and Senator LAUTENBERG.

I further ask unanimous consent that the following Senators be recognized in this order in consideration of this measure:

Senator BURNS, Senator MURRAY, Senator COVERDELL, Senator CLELAND, Senator MCCAIN, and Senator GRAHAM.

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

Mr. BURNS. Mr. President, not to take away from the seriousness of the moment or the debate that we heard about the line-item veto and the debate we are hearing today, I will say about my chairman and ranking member of the full committee, since this circumstance has happened, it has sure picked up the most colorful debate in committees. That had been absent for quite a while.

I want to congratulate my friend from West Virginia on laying out the situation as it really is. But we are here and we have to deal with the moment as it is, and given the President's desire to improve the quality of life for the men and women in uniform, and given the President's dedication to a balanced budget as reflected in the real world, and the real world is appropriations—that is where we actually spend the money. We can debate on the budget all we want to but accounting time is when we start appropriating dollars for the real world.

The ranking member on military construction appropriations, Senator MURRAY, has worked hard with our colleagues in the House and also with the administration before we finally passed a conference report and sent it to the White House for the President's signature. We worked very hard to take out those items that would have been objectionable, and it reflected the intent of Congress, both through the budget statement and through the appropriations statement and the charge that was given us when appropriating the money. I believe we did a responsible job in working with everyone.

Of course, of all the projects that are in this, we had to single out 38. Now we are offering some back. We have to remember that we are charged with covering the most basic defense requirements. After hearing from the military services, the Congress did add back $800 million to the President's budget, with the agreement from the President to fund those meritorious requirements that, as articulated to us, are essential to the services' operations.

I guess since I've been working in this committee, we have tried to shift the focus in military construction to quality of life. We have a professional military now. It is not like it used to be. We have made those shifts primarily into the quality of life—the building of health care centers, the building of child care centers, new barracks for enlisted people—because everywhere that I have traveled, looked at our men and women in uniform, and especially with the rollbacks and the downsizing in the force structure, I am concerned, now more than ever, about the morale of our fighting men and women.

I have visited the installations around the country. I have seen soldiers, marines, airmen and sailors sleeping on floors, airmen working in substandard facilities, and families forced to go on—would you believe it—on food stamps. They actually qualified for food stamps.

Even though we have a professional military, we still ask them to defend our country on a moment's notice. I, for one, think they deserve better. That is why I question the veto of this President. I guess I'm even more familiar with the facilities in Montana. I had one of those lines that was vetoed, a dining facility at Malmstrom Air Force Base in Great Falls, MT. I just wish the President had accepted my invitation to have lunch there. It didn't look much like the north side of the White House last night, I can tell you. He would see a facility that is in bad need of repair and renovation. I'm not real sure if the food preparation areas or where they serve the food would pass health inspection in the civilian sector. There is lack of ventilation and food storage space. It was an old commissary. The facility would sure flunk the most basic of all inspections.

It is my strong view that the President used the line-item on this bill not as the Congress intended, or even his own stated intent. I would not feel so bad, I really wouldn't, had we gone over the budget agreement or had we gone over what we spent a year ago or even 2 years ago. The ranking member knows that we are almost $2 billion out of an $11 billion appropriation lower than we were 2 years ago in providing necessary items of need in the military construction for these projects. If we had gone over and had we just thrown money hand over fist and wasted it, I wouldn't feel bad about this line-item veto, but we did not do that. We did not approach this bill in that manner. We knew the line-item veto was out there. We knew that everything in this bill, No. 1, had to be authorized by the authorizers, and we knew the amount of money that we were expected to save in order to comply with the balanced budget and still get the job done for our military people.

Every project on this list was carefully screened. It was authorized by the Armed Services Committee. It was included in the final Defense authorization conference for fiscal year 1998. Had we not gone through that process, had we not taken each item individually, had we not been sensitive to the need of our lifestyle and the quality of life, had we not done any of that—yet in consultation with the President and with the representatives of each one of the military services—had we not done that, I wouldn't feel so bad today. But we did that. We did it in the most conscientious way that we know, and that is human contact, actually talking to people through the whole process, keeping them informed about what was in there and what was not in there.

Everybody was not happy with it, but it was a pretty big vote, 97–3. I think that is pretty overwhelming. It tells the story of the work that we did on this legislation.

So I appreciate my ranking member and both sides of the aisle. I appreciate all the folks that worked on this piece of legislation. And, yes, I appreciate the people who represented the military services and the people who represented the White House as we were working on it. I appreciate them, too. But maybe some things I don't appreciate: Once you agree on something,

then you walk away from it some 6 weeks later. That is not the way we do business in Montana, and I don't think that is the way we do business in Washington, Arizona, Georgia, or Kansas.

I ask for your support on this. We will probably have more to say with regard to this piece of legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise today to strongly support the legislation before the Senate, along with the chairman, Senator BURNS, who has done an outstanding job of putting this legislation together. I hope the Senate does disapprove the cancellation of projects which the President made under his line-item veto authority. I do not think it was appropriate to exercise that authority in the case of our bill. The subcommittee worked very hard and successfully to review the many requests that came before us for projects that were not included in the President's budget. We worked very hard to include only those which met very stringent criteria. In all cases, that included the criteria that the project be executable in fiscal year 1998. That is, that contracts could be awarded for construction.

It is puzzling to me why the administration concluded that some 38 projects were not executable. That conclusion is wrong. The Pentagon's own paperwork, provided to the subcommittee for each of the proposed projects, plainly states virtually every project we included was capable of execution in fiscal year 1998.

The subcommittee added substantial sums for new health facilities, quality of life improvements such as the housing area, and for the National Guard and the Reserves. Despite these additions, the final product was frugal, and represented a 6-percent reduction below last year's milcon spending level.

Mr. President, the chairman and ranking member of the Appropriations Committee, Senators STEVENS and BYRD, have rejected the vetoed items as an inappropriate overreaching of authority on the part of the administration. I am gratified that the committee is standing up for the subcommittee's work. It is a substantially better product than the budget submitted by the President, and that is our job. The administration has no exclusive corner on wisdom in making its selection of projects.

In fact, the administration has admitted making serious errors in the handling of this matter. I would have thought that the administration would have been far more careful and selective in exercising its new line-item authority, but the reverse was the case. The exercise of power here was sloppy, and rushed—and resulted, as OMB Director Raines wrote to the committee on October 23, in inaccuracies. The administration has taken to writing to individual Senators to indicate it would help restore those projects wrongly vetoed, and put them back in the budget at the earliest opportunity. That tactic makes the situation, if anything, even more confused, since it appears the administration is revising its evaluation of the mix of projects based on new information or criteria and there has certainly been no meeting of the minds on such new acceptable criteria with the committee.

Mr. President, I would suggest that Senators look at this disapproval resolution in the narrow framework in which it is written. Senators need not address this position on the constitutionality or wisdom of the line-item veto legislation itself to vote for this resolution. A vote for this resolution is a vote against back-of-the-hand capriciousness, apparently in a hurried manner, after the subcommittee, full committee, and both Houses labored over a period of several months to scrub the budget and add only those projects which are deemed worthy.

I hope this measure will receive the strong support of the full Senate, as it did when the conference report was first presented, and that it will be presented to the President before we conclude the first session of this Congress.

Mr. President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, before my friend from Arizona speaks, we had a unanimous consent on the order.

I ask unanimous consent that we go back and forth, which would mean that the next Senator allowed time would be Senator MCCAIN from Arizona and, after that, Senator CLELAND from Georgia.

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

Mr. BURNS. I yield to my friend from Arizona.

Mr. MCCAIN. Mr. President, I intend to be brief. This issue has been well discussed and well debated, and will be again because this is the first step in a process that we will see for the first time in the Senate, and that is a motion of disapproval of a veto by the President and an attempt to override the President's veto. So we will have plenty of time. I mainly asked to speak, one, to congratulate Senator STEVENS not only for his stewardship of the entire Appropriations Committee, but his staunch advocacy for a strong national defense and his sincere efforts to do what he feels is right.

Senator BURNS has done an outstanding job as the chairman of the Military Construction Subcommittee. I believe that his recent depiction of the situation at Malmstrom Air Force Base is an ample indication of his concern for the living standards of the men and women in the military and his deep and abiding concern for their welfare.

Having said that, Mr. President, I, as a supporter of the line-item veto, intend to vote against this resolution. I believe that we have to set up criteria that need to be met, because there is not an unlimited amount of Defense dollars or taxpayer dollars for that matter. Not only did these projects—or at least the overwhelming majority of them—not meet the criteria I have been using now for 10 years, but there were 129 low-priority items added to the Milcon appropriations bills that should have been—at least under the criteria I have been using for the last 10 years—vetoed.

Mr. President, there is a process that we go through. It is authorization, it is hearings, it is budget requests, it is the kind of orderly process that gives a priority that is sufficiently compelling for the taxpayers' dollars to be used on that project, whether it be in military construction or defense appropriations, or any other appropriations bill. In order to understand that, in my view, in order to make a reasonable and fair and objective decision, you have to set up objective criteria. That is where the administration has failed in this exercise.

The people in this body—the Senator from Washington, who just spoke about what happened in her State, the Senator from Montana, the Senator from Georgia, and all the other cosponsors of this bill—deserve the right to know under what criteria the President of the United States would act in vetoing these various projects; in this case, they are military construction projects. They have a right to know that, as do the people and the military installations in their districts. We have a future years defense plan that the Pentagon sets up, which lists the projects that are going to be funded, and which they plan to, after a careful screening process, request funding for from the Congress and the American people. There is a system that goes before the authorizing committees. We have a military construction authorization bill, and then it goes before the Appropriations Committee. That process should be adhered to.

Why am I against so many of these projects? Simply, Mr. President, because there are 12,000 American military families that are on food stamps. I understand they don't have a decent facility to eat in at Malmstrom, but I also know they are kept away from home because of a lack of equipment. And we are having a hemorrhage of Air Force and Navy pilots because we are not paying them enough and we are keeping them away from their families, keeping them at sea, or in places like Iraq or Turkey, because we are not funding them adequately.

Mr. President, I happen to know that we are not modernizing the force sufficiently in order to meet the challenge in the future. We are buying things such as the B–2 bombers, which we find out can't even fly in the rain. Then we have the *Seawolf* submarines, and there is no tangible challenge to American security that warrant paying for that. Frankly, we are funding projects not on the basis of merit, but for other reasons.

I believe that the men and women in the military, especially those enlisted men and women, deserve more than they are getting. They are not getting it because we are funding projects and programs many times which are unnecessary. Also, in the Defense appropriations bills we are funding projects that have nothing to do with national defense. I am not sure what electric car research has to do with national defense. I am not sure what supercomputers to study the aurora borealis have to do with defense. They may be worthwhile projects, and I do not disagree that some of the projects that were vetoed by the President here were worthwhile; it is a matter of priority.

I hope that the President of the United States and the Director of the Office of Management and Budget, who obviously is making many of these recommendations to the President, will understand that we have to set up criteria for when the line-item veto is used or not used. Otherwise, you give the appearance of politicization of the process, which understandably angers and upsets Members of Congress who feel that they or their projects are being singled out, where other projects under the same criteria were not line item-vetoed.

So I believe that if we want to avoid going through this exercise on a fairly frequent basis, the Members of Congress and the American people deserve the President of the United States to say: This is the criteria I will use—whether it is authorized or not, whether it is added in conference or not, whether it was earmarked or not, whether it was requested, or whatever. I am not saying the President should use my criteria, but I am saying he should use an objective criteria that is credible; so that when the Senator from Montana, Senator BURNS, who has devoted so many hundreds of hours to this effort and takes his duties as chairman of the Military Construction Subcommittee so seriously, decides whether or not to add or not add a project to his legislation, he will know whether it meets his criteria. He will have a certainty as to whether the President will veto it or not.

I congratulate the Senator from Montana and his staff for their hard work. I hope we can provide a framework in which he can work so there would be certainty and objectivity, and not a taint or appearance of politicization of this process, which is the case today.

I yield the floor.

Mr. CLELAND addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

PRIVILEGE OF THE FLOOR

Mr. CLELAND. Mr. President, I ask unanimous consent that Regina Jackson, a legislative fellow on my staff, be granted floor privileges for the debate on S. 1292.

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

Mr. CLELAND. Mr. President, I join my distinguished colleagues today in search of any rhyme or reason behind the veto of the $6.8 million project that the President vetoed at Moody Air Force Base in Georgia. It is known as the HH–60 OPS/pararescue project. It is a critical project that supports combat search and rescue training and pararescue training operations. This project should have been included in the budget. It benefits the quality of life for our service members, and has been operating at Moody since April, 1997. There is no apparent rationale for this veto action. I believe that the Moody project was vetoed because it failed to meet all the criteria for approval set by the administration. Thus, the claim was made that: first, the Moody project was not requested in the President's 1998 budget; second, the project would not improve the quality of life of military service members and their families; three, the project almost certainly would not begin construction in 1998.

Responsible consideration of veto targets would have taken into account and weighed all the facts. The facts are these. My information is based on the fact that, in 1996, the Pentagon announced its plans to move two squadrons, the 41st and 71st, from Patrick Air Force Base, FL, to Moody Air Force Base, GA. In connection with the move, the Air Force began quartering a small number of people at Moody as early as October 1996 and subsequently moved the squadrons there in April 1997. The relocation is now complete and the unit is operating out of a temporary trailer.

Having made a formal announcement, the Pentagon certainly had a genuine interest in the success of this project. The Air Force, having begun the transition in October 1996, obviously intended to implement the plan. Unfortunately, the decisions came too late for the Pentagon to include this project in the President's fiscal year 1998 budget, though, again, I believe there can be no doubt that our defense leadership fully supports the new mission for Moody.

My distinguished colleagues, let us not forget that this Congress is duly responsible for ensuring that our legislation considers appropriate measures where the administration's submission may actually be lacking. It is not unusual, Mr. President, but in fact very common, that in the course of congressional review, we make additions or deletions that are in the best interest of national defense.

In my opinion, this is one of the most critical projects that I have come across. I sit on the Armed Services Committee. I think it is my job, not only as a Senator from Georgia but as a U.S. Senator to bring up other concerns that the administration does not raise. I would like to say that the Moody squadron does employ the Blackhawk helicopter to implement its mission, and the project supports essential combat search and rescue training and pararescue training operations. What could be more important to the quality of life of military service members and their families than facilities that can operate to preserve those lives?

Apparently, the administration erred in assuming that the squadrons had not yet located to Moody. Actually, the move began in 1996 and is now complete. I think if this veto is not overridden, the mission capability of the squadron will be seriously impacted. A combined function facility is required to provide both an adequate squadron operations space and pararescue space. No facility currently exists at Moody to support the HH–60 pararescue squadron. Without this facility, new mission functions will be almost impossible to perform and may not be able to operate as designed. Whether the veto was arbitrary or ill-advised, the bottom line is that the Moody veto makes no sense.

Mr. President, I ask unanimous consent that a letter sent by myself and Senator COVERDELL be printed in the RECORD that expresses our point of view on this important matter.

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

U.S. SENATE,
Washington, DC, October 7, 1997.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our profound disappointment with your decision to veto a military construction project vitally important to Air Force rescue squadrons based at Moody Air Force Base. Yesterday you vetoed a $6.8 million project to build a squadron operations support facility to support the 41st HH–60 Pararescue Squadron which has been relocated to Moody AFB from Patrick AFB. We are unable to understand the rationale used in canceling this project. Without this facility, the new mission functions associated with this relocation will be almost impossible to perform and the mission capability of this squadron will be severely impacted. This was an essential project with high military value, and your decision is even more troubling given revelations that Defense Department officials were not consulted.

We are particularly disturbed by the discrepancy in the facts you cited in vetoing this project. Your veto message indicated that 1) "the mission has not yet relocated from Patrick AFB" and 2) "it is unlikely that these funds can be used for construction during FY 1998." Both of these assertions are false. The relocation of these units began in April 1997 and is now complete. Furthermore, the Air Force informs us that the proposed construction can be executed in FY 1998. We are disappointed that your staff has ill-served you in presenting to you the facts regarding this project.

It should be made clear that we both support the line-item veto as a means to reduce spending on wasteful programs when the facts merit a veto. The facts here do not support a veto. We are concerned that the perceived arbitrary nature of this and other such vetoes will undermine support for this useful mechanism.

In closing, we regret that your decision was based on erroneous information regarding the urgency of this project and the ability of the Air Force to execute it. We hope to be able to work with you in the future to support the needs of the men and women who

serve at Moody AFB and in the entire Department of Defense.

Most sincerely,

PAUL COVERDELL,
U.S. Senator.
MAX CLELAND,
U.S. Senator.

Mr. CLELAND. Senator COVERDELL and I are both supporters of the line-item veto to reduce wasteful spending. But the basis for the veto, as the Senator from Arizona indicated, must be prescribed and must rely on the facts, not on false assumptions. Clearly, in the case of the Moody facility, the facts did not justify the decision, and the project did not warrant a veto.

Mr. President, this project has been and remains a top priority for Moody Air Force Base and for both Georgia Senators. The mission has been and remains in place at this time. I look to this bill to make right the wrong of the veto. In so doing, I hope to be able to support the needs of the additional 680 military personnel and approximately 1,500 spouses and dependent children that the mission has brought with it to Moody.

I yield to my colleague, the senior Senator from Georgia, for his remarks. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I rise today to apprise my colleagues of a terrible mistake made by the President and the administration in its issuing a veto on the $6.8 million HH–60 Operations Pararescue Unit project at Moody Air Force Base in Valdosta, GA.

I am aware of the interest of my colleague, Senator CLELAND, in this matter, and I understand that he has joined me in questioning the rationale behind the abuse of power by the President. We just heard an excellent statement from my colleague, Senator CLELAND, of Georgia, on this very matter.

In looking at this project at Moody, it is important to understand, first, that this pararescue unit is critical to our combat search and rescue training operations which allow this group to function in a proper capacity.

As you may know, Mr. President, pararescue units are imperative to instilling in our fighting forces the battlefield and training confidence necessary for just the type of confidence that we have earned in this century.

The administration claimed that the Moody project was not needed for several reasons—such as budget requests, quality of life, and construction capability. We now know that these assertions are not accurate. The Air Force has distinct plans to fund the Moody project which was included in the Air Force's 1999 budget request. Officials at Moody inform me that they could have, indeed, begun construction on the project this year.

Finally, the Pentagon in 1996 announced its plans to move two squadrons, the 41st and the 71st, from Patrick Air Force Base, FL, to Moody Air Force Base in Georgia.

A small number of personnel began quartering at Moody as early as October of 1996, and subsequently moved the squadron there in its entirety in April of 1997. Make no mistake. The move is now complete, and the personnel are operating out of temporary trailers at Moody as we speak here today.

What greater quality of life issue exists for the nearly 2,200 military personnel and their families that this mission has brought to Moody?

We need to move expeditiously on this legislation to correct this error. The administration did not know, Mr. President, that the squadrons were already in Georgia. They believed they were still in Florida when they exercised this veto.

On this note, I commend my colleague from Alaska, Senator STEVENS, for bringing this bill before the Senate. I ask for my colleagues' support.

Mr. President, if I might make an inquiry of my colleague from Georgia, did he still prefer to participate if the colloquy here this afternoon, or did you want to just enter that into the RECORD?

Mr. CLELAND. Mr. President, I thank the distinguished senior Senator from Georgia who spoke eloquently on this matter. It is clear that the people are already there, and the need exists for this operation facility. There was a misunderstanding, a miscommunication, about this matter at the Executive level, and that we were not properly consulted. Otherwise, we would have been able to share vital information with them at the time, and it might have changed the outcome.

But I hope, along with my distinguished colleague, Senator COVERDELL from Georgia, that the Senate will override the President on this matter and make sure that this vital operational facility is present at Moody Air Force Base in Georgia to accommodate some 2,000 personnel that are already in place, as the Senator has so accurately indicated.

Mr. COVERDELL. I appreciate the remarks again of my good colleague from Georgia, Senator CLELAND. His remarks have documented the travesty that has occurred here. And, of course, when something like this happens, you have over 2,000 families in Georgia who are living in temporary facilities, and it is imperative that this error, this mistake, be overturned, which, of course, would be among the many, many issues that are in Senator STEVENS' bill.

So my colleague from Georgia and I are both rising in support of that to get this error corrected.

Mr. President, I yield the floor.

Mr. MCCONNELL. Mr. President, I would like to thank the chairman of the full committee, Senator STEVENS, and the ranking member, Senator BYRD, for their strong leadership on this important issue.

Additionally, Senator BURNS and Senator MURRAY, the chairman and ranking member of the Military Construction Subcommittee, have done an outstanding job all year of putting together an appropriations bill which addresses the vital needs of our military installations.

Mr. President, we are here debating the merits of President Clinton's decision to strike funding for over 30 military construction projects. Let me state clearly that I strongly object to the President's reckless use of this new authority.

While I support the line-item authority, in this instance the President not only misused it, he endangered soldiers lives.

Let's look at the President's argument. Among his statements, the President claimed that he was canceling only projects ''that would not have been built in fiscal year 1998 in any event; projects where the Department of Defense has not yet even done design work.''

Wrong. The President's statement is absolutely inaccurate.

In fact, of the projects contained in this measure, each of them could begin construction in fiscal year 1998, a direct contradiction to the President's claim.

As for the two projects in Kentucky which were deemed wasteful by the President, one had 10 percent of the design work completed, and the other had completed 90 percent of the design work. Ninety percent, Mr. President, that is hardly insignificant.

President Clinton also claimed his effort was ''another step on the long journey to bring fiscal discipline to Washington.'' In fact, he went on to claim he was ensuring ''that our tax dollars are well spent,'' and was standing ''up for the national interests over narrow interests.''

Wrong again.

The projects eliminated by the President totaled $287 million. Our Federal budget is over $1.6 trillion. Therefore, the President's efforts have saved the nation a whopping seventeen thousandths of 1 percent of the Federal budget. So the simple truth is no real money will be saved as a result of President Clinton's veto.

The fact is every single project contained in this measure is in the President's own future year plan for military construction. Therefore, these facilities will be built, if not this year some time in the next 5 years. And, Mr. President, I don't have to explain to you the reality that delaying the inevitable construction will only increase the cost of these projects.

Mr. President, anyone who believes that the projects will be built for only $287 million, their cost in fiscal year 1998, is sadly mistaken. Each of these projects will increase in cost, and the American taxpayers will be left holding the bag once again.

Finally, Mr. President, allow me to discuss one of the Kentucky projects which was vetoed in order to provide an example of how the process was mishandled by the Clinton administration. And, let me begin by reminding the

Senate that the administration did not even use accurate information in evaluating this and other projects.

Fort Campbell, KY, is home to the 101st Airborne, Air Assault, the ''Screaming Eagles.'' This unit is one of the most important assets in the U.S. Army, and is often the first to deploy in a crisis situation.

As a result, the soldiers at Fort Campbell must maintain the highest level of readiness in order to deploy at a moment's notice. Yet, because President Clinton decided this was a pork-barrel project, over 200 soldiers a day are forced to work in facilities that are more than 50 years old, but were meant to last no more than 15 years when they were constructed.

Let me say that another way. Over 200 of America's finest soldiers are working, everyday, in facilities that should have been replaced or torn down over 40 years ago. These structures are literally falling down on top of the men and women working in these facilities.

Instead, Mr. President, the soldiers of the 101st are working in dilapidated, dysfunctional structures with little or no heat, faulty electrical wiring, no fire control systems and are riddled with asbestos.

An OSHA inspection of these facilities would do what no army in the world could—shut down one of our premier combat units and prevent it from meeting its mission requirments.

Conditions are so poor that work is often performed outside on gravel parking areas and not at all when temperatures reach severe levels.

The $9.9 million appropriated for this project would have provided much needed facilities to the 86th Combat Support Hospital—a rapid deployable unit equipped with the Army's most modern medical systems, and whose mission it is to support soldiers on the front lines of combat.

To meet its mission requirement, Mr. President, the 86th must maintain more than 1,200 pieces of equipment in top, deployable condition around the clock. And, as you can imagine, much of this medical equipment requires conditions which cannot be met by these inadequate facilities.

Mr. President, the examples are numerous, but the most telling example is truly shocking. In 1991, one of the structures slated to be replaced burned to the ground in a matter of minutes. Fortunately, no one was hurt in this incident, this time.

If this is not a readiness and quality of life issue, I do not know what is.

Clearly, the condition of these facilities is incompatible with maintaining a premier fighting force and with retaining the quality men and women who work there.

Let me conclude, Mr. President, by saying the line-item veto was intended to be an instrument of precision and not the weapon of blunt force trauma. It was meant to deter wasteful spending—not endanger the lives of American service men and women.

But, the President's action was not, as he claimed, ''another step on the long journey to bring fiscal discipline to Washington'' rather it was a reckless abuse of authority that must be rejected. It is time we stop paying lip service and truly commit ourselves to meeting the needs and quality of life issues of these dedicated soldiers. I ask my colleagues to join me in voting to restore the funding President Clinton eliminated.

Mr. FRIST. Mr. President, I rise today to defend two projects the President of the United States chose to veto in the military construction appropriations bill. The President claimed that three criteria had to be met for an item to be cut. First, the item was not requested in the President's fiscal year 1998 budget; second, it would not substantially improve the quality of life of military service members and their families; and third, architectural and engineering design of the project has not started, making it unlikely funds can be used for construction in fiscal year 1998. Only the first criterion was, in fact met in the two cases I rise to support.

The first project the President struck was a tactical equipment shop at Ft. Campbell. The $9.9 million project would provide a vehicle maintenance shop, storage for a forward support battalion, and a combat support hospital. The project replaces a 55-year-old building that was constructed in 1942 as a temporary structure to last until the end of World War II. This project was, please note, fully designed, and therefore did not meet the President's third criterion.

This facility is Ft. Campbell's No. 1 priority mission support project. The structure is literally falling down around its occupants and is ridiculously expensive to maintain. The Army wastes tens of thousands of dollars on Band-Aid repair jobs every year just to keep the structure barely functional.

The old structures have significant environmental problems: No oil/water separators, no sumps for battery acid, and the buildings contain asbestos and lead-based paint. In addition to the environmental issues, the structures have old faulty wiring that caused a fire in October 1991. Also, there is no eye wash area or vehicle exhaust system.

The new structure would support the 101st Airborne, whose operational deployment requirements have increased 300 to 400 percent to support Operations Other Than WAr. In 1995 alone, the Clinton Pentagon spent $6.6 billion in Operations Other Than War in places like Bosnia, Haiti, and Somalia. Combined, the cost of both of the Tennessee projects vetoed by the President are about the same as one day's spending at that rate.

Ironically, according to the President's formula for cuts, if this facility were an arts and crafts center, it would have been classified as a ''quality of life'' project sale from cuts. Of course, the building's current state of disrepair is a ''quality of life'' issue to the young Army troop who is spending 8 to 12 hours a day working in the facility.

The other Tennessee project canceled by the President was an atmospheric air dryer facility at Arnold Air Force Base. This $9.9 million project would construct an air dryer facility to replace the antiquated facility currently used. The new facility would support the mission of the propulsion wind tunnel facility used to test several new weapon systems, including the F–22 and joint strike fighter.

Mr. President, both of these projects are vital to military readiness and national security. It is my hope that my colleagues will take a close look at the projects in this legislation and cast a vote for this critical legislation. We must not allow our forces to decline further into a hollow state reminiscent of the late 1970's.

Mr. KOHL. Mr. President, I want to make a few remarks about the legislation before us. I am a strong supporter of the line-item veto. I believe we must use whatever tools we have at our disposal to restrain Federal spending.

That said, I agree with my colleagues that we have a right to expect the President to exercise his line-item veto authority in a manner that is fair. If he says he is going to use a set of criteria, then he should. Unfortunately, some but not all of the project vetoed met the President's own criteria.

For example, the President used his line-item veto authority to eliminate funding for an aerial port training facility at the General Mitchell Air Reserve Station in Milwaukee based on erroneous information. The administration has admitted as much. There is no question that this project is 35 percent designed with a site selected and is ready to be constructed in fiscal year 1998. In addition, this project was authorized in the fiscal year 1998 defense authorization bill conference report and is included in the Pentagon's 5-year plan.

I should also add that this project makes a significant contribution to the military readiness of a unit which plays an important role in our Nation's defense. The merging of the 34th Aerial Port Squadron, 154 persons, and the 95th Aerial Port Squadron, 102 personnel, has overburdened the current training facility. The 34th Squadron must train its reserve airlift specialists to load and unload military cargo aircraft using one bay of the base warehouse and a leased modular facility. Even with the temporary facility, overcrowding is so severe that the unit cannot train together. Some reservists must train on weekends that are not normal unit training assembly weekends, depriving them of working with the rest of the unit personnel. Using the warehouse bay has also created a shortage in onbase storage. Members of the 34th Aerial Port Squadron have been deployed to support our mission in Bosnia, and they will continue to be

called upon to support other active duty and reserve units.

Funding for the aerial port training facility is not included in the legislation before us today. It is my hope that the Department of Defense will recognize the importance of this project and will move it up 1 year to include it in the fiscal year 1999 budget, and I am working to that end.

Mr. President, it is our job to make difficult choices. I am not willing to support a bill that restores all of the projects which were line-item vetoed. Some of these projects were not 35 percent designed. Some of these projects did not meet the President's criteria. Some of these projects did not need to be built this year.

If this legislation included just the project which met the President's criteria that would be a different story, but that is not the bill before us today. Thus, Mr. President, I cannot support this legislation and I urge my colleagues to uphold the President's line-item veto.

Mr. FORD. Mr. President, just a few weeks ago President Clinton vetoed 38 projects in the military construction appropriations bill. Two of those projects were in Kentucky, one at Fort Knox and one at Fort Campbell. These projects were included despite the fact that neither one fell within the administration's criteria for a veto.

That criteria included projects not requested in the budget, that would not substantially improve the quality of life of military service members and their families, and that would not begin construction in 1998 because the Department of Defense reported that no architectural and engineering design work had been done.

Both the qualification range at Fort Knox and the tactical equipment shop at Fort Campbell were requested in the Army's 5-year plan, both have well over the necessary amount of design work completed, and both could begin construction in 1998.

Over 50 percent of the design work is completed at Fort Knox and with funding, construction would begin in 1998. This project replaces 10 1940 vintage multipurpose small arms training ranges which generate high costs for maintenance and use—into one modern multipurpose range. This project was the number two construction priority for Fort Knox.

The Fort Campbell tactical equipment shop project is in the second phase of an effort to replace World War II era buildings. With 90 percent of the design work completed, construction can also begin as soon as the money is made available.

Mr. President, the projects at Fort Campbell and Fort Knox were included in the appropriations bill because the Army considered them priorities. And while I am for getting rid of government waste as much as anyone else, these two projects clearly do not meet that criterion.

Mr. REED. Mr. President, I rise in support of S. 1292, the Military Construction Appropriations Line Item Veto Disapproval bill.

I have long questioned the line-item veto in general terms. I am not convinced of its merit and I am particularly concerned with the manner in which it was applied to the Military Construction Appropriations bill for fiscal year 1998.

Like my colleagues I believe that wasteful spending must be cut. However, since the line item veto was exercised for the first time on the Military Construction Appropriations bill for fiscal year 1998, we have learned that even the White House now recognizes that its own data and process for identifying ''wasteful'' items to be subjected to the line item veto were seriously flawed. Indeed, OMB Director Franklin Raines wrote in the official Statement of Administration Policy, ''. . .we are committed to working with Congress to restore funding for those projects that were canceled as a result of the data provided by the Department of Defense that was out of date.'' Indeed, it is my understanding that the Administration is seeking ways to right these wrongs through other avenues. Moreover, I am perplexed by the theory that only the Administration knows what deserves to be in the budget. Instead, I believe there is plenty of wisdom here in Congress as well as the White House to establish budget priorities based on rational compromise and debate. Lastly, I would suggest to supporters of the line item veto that the real task of balancing the budget requires votes like the one I cast in 1993 for deficit reduction, not line item vetoes.

There are also some who believe the line item veto is an innocuous device that could never be used for purely political purposes. However, the people of Rhode Island know full well what giving the President the authority to pick and choose specific budget items means. Rhode Island has already experienced a Presidential effort to eliminate an essential program. In 1992, President Bush tried to rescind funding for the Seawolf submarine program which is vital to our nation's defense and the livelihood of thousands of working Rhode Islanders. Fortunately, Democrats were able to beat back the attempt to rescind funding for the Seawolf, but this experience led me to believe that a line item veto would make future battles even more of a lopsided battle than a fair fight. In addition, a President, of any political party, could use the line item veto to eliminate other programs that are important to Rhode Island without fear because a small state like mine only has four votes in Congress.

Mr. President, The line item veto is of untested constitutionality. Without a Constitutional amendment, the line item veto act transferred significant power from the Legislative Branch to the Executive. I would hope that the Supreme Court rules on the constitutionality of the line item veto in the near future so the Congress can act accordingly. In the interim, I believe the two principle tests on the use of the line item veto should be: One, is a particular line item veto politically motivated? Two, is a particular line item veto the outcome of a rational and coherent analysis based on sound policy?

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST—CAMPAIGN FINANCE REFORM

Mr. LOTT. Mr. President, after a great deal of communication and discussion working back and forth, I think we have come up with a fair agreement on how to handle the campaign finance reform issue that would allow us to go forward with other bills this year, and have a time certain in which to proceed next year, and one that would allow for a full discussion and votes.

So I ask unanimous consent that the majority leader, after notification of the Democratic leader, shall turn to the consideration of a bill regarding campaign finance reform to be offered by Senator LOTT, or his designee, on or before the close of business on Friday, March 6, 1998.

I further ask that Senator MCCAIN be recognized to offer the first amendment, in the nature of a substitute, that inserts the text of S. 25, the McCain-Feingold bill, as modified by Senator McCain on September 29, 1997. No further amendments would be in order to the McCain amendment prior to a motion to table.

I further ask that if the amendment is not tabled the amendment and the underlying bill will be open to further amendments, debates, and motions.

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

Mr. LOTT. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I thank the distinguished majority leader for his efforts and for the leadership he has shown in keeping everybody at the table as long as he has in order for this to be accomplished.

Let me also thank Senators MCCAIN and FEINGOLD for their diligence in working as long as they have to get us to this point.

Finally, let me thank Senator MCCONNELL for his involvement and his participation in allowing us to reach this agreement.

As Democratic leader I can say with great enthusiasm that we are pleased that we have now reached this point. I also feel the need to express my public gratitude to Senators in the Democratic caucus for their willingness to be united in demonstrating the importance of this issue.

This is not better necessarily for Democrats or Republicans. But in our view, this is a very big victory for the

country. This will give us an opportunity to have a good debate as we have discussed, and I look forward to that opportunity sometime prior to the first week in March.

Let me say, Mr. President, as a result of this agreement, I personally will oppose any other effort to bring this issue up prior to the time agreed to, because I believe we have necessary work to be done, and I believe that it is in the interest in keeping with this agreement that we now turn to those other matters.

I expect a full-fledged debate with plenty of opportunity to offer amendments. Given this agreement, now I have every assurance and confidence that will happen.

So, again, Mr. President, let me reiterate my public gratitude to all those involved for the successful agreement that we have announced this afternoon.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to thank the majority leader especially in all of this. I consider myself a close and dear friend of the majority leader. The majority leader has seen a lot more of me than he wants to ever see me with such frequency ever again. I want to assure the majority leader that I am deeply appreciative of the time he has spent with me, and the time he has spent with the entire Republican conference.

I don't think there has been a more difficult issue that the majority leader has had to handle, nor do I believe that he will face one as difficult as this in the future.

I thank Senator DASCHLE, the Democrat leader, who I think has approached this issue in a fair fashion.

I think it is also only a entirely appropriate that I thank Senator MCCONNELL. The Senator has strongly held honest views on this issue. He has again shown a willingness to debate and discuss this issue. Our differences have been passionate but they have not been personal, and I know that he and I intend to maintain that relationship. I can assure my colleagues that Senator MCCONNELL will make strong arguments for his position. And I certainly respect and in some ways admire his willingness to stand forth on an issue which is somewhat difficult to address.

Mr. President, I also believe the following: That we can and should and will sit down together on both sides of the aisle, proponents and opponents, with the recognition that this system needs to be fixed. On how it needs to be fixed there are strong differences of opinion, but I think almost every American now understands that we need to fix this system because we need to restore the confidence of the American people in the way that we select our elected officials.

I am convinced that the real answer, the real solution, will probably not come in the form of debate or any cloture motions and all of that on the floor of the Senate. I believe it is going to come when we all sit down as dedicated Americans and come up with a bipartisan solution to this problem. I still believe that is possible. I will do everything in my power working with both Senator DASCHLE and Senator LOTT, Senator MCCONNELL, and my dear friend, Senator FEINGOLD, who has done a wonderful job here, as I have said many times, so that we can get this agreement.

So I believe this is not an end. There isn't a midpoint. This is just a beginning of a dialog that has to begin in all seriousness, and discussion and compromise which may be called for on both sides of this issue so we can do the will of the American people. I believe the will of the American people has been expressed convincingly that we need to fix the system.

I want to reiterate my openness to any suggestion or idea or proposal that would lead us to that.

Again, thanks to the majority leader.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Thank you, Mr. President.

I am, of course, very pleased that this agreement has been reached.

I want to join in the gratitude toward the majority leader. Any majority leader has a hard job on almost any issue. But this is about as tough as it gets. And I know this has been a very, very difficult period of negotiation.

I thank my leader, Senator DASCHLE. Without his persistence and willingness to take on a tough job in our conference I don't think this would have been possible either.

I want to join with Senator MCCAIN in expressing my admiration for the Senator from Kentucky as well, an extremely worthy adversary. I can honestly say it is enjoyable to debate this issue with him. It will be especially enjoyable to be debating specific amendments as we get into this next year.

But overall, what this represents is what Senator MCCAIN of Arizona and I have said from the beginning—that this can't possibly be done in the end on a partisan basis. The answers have to be bipartisan. This agreement reflects that realization.

I want to join with Senator MCCAIN in his statement about the desire to negotiate, the desire to put together something that the American people feel would make a real difference in this area.

My last comment, Mr. President, it certainly would have been my preference to have a bill pass this year. I said, many times it is very difficult to get this done in an election year, and that would be the conventional wisdom if we are in the middle of campaigns to try to legislate on that. But I think maybe this next year might be an exception. With this system continuing to display itself, perhaps next March will be the ideal time to take a look at this system as it is unfolding in another election and ask ourselves if this is really the best we could do in this country in terms of electing our officials.

So, again I thank all of the Senators involved in these difficult negotiations. This appears to be a fair outcome, and we will have a continuation of this important debate next year.

Mr. President, I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, my special thanks to Senator MCCAIN and Senator FEINGOLD, and Senator DASCHLE for allowing this debate to go forward in an orderly fashion.

As we all know here in the Senate, any Senator at any moment can kick off a debate on any subject. That, of course, gives each Senator a good deal of power in determining what we debate. But what we have essentially agreed to here today is an orderly process by which the Senate can go on and engage in other business and have another debate on another day on this very important issue which we have debated almost yearly for the last decade. Let me say that I think this is a very sensible way to do it.

Finally, I want to commend the distinguished majority leader. He has stood fast on principle over a difficult several-week period. The principle was that the majority leader should set the agenda for the Senate. I want to just say to my friend, the majority leader, that I have never seen a better example of leadership than he has exhibited over the last few weeks.

Senator MCCAIN said the majority leader saw a lot of Senator MCCAIN. He saw an equal amount of Senator MCCONNELL over this period. And I think he is probably ready to see less of both of us for a few weeks.

But in any event, in his position as leader, Senator LOTT obviously would like to see things go forward. On the other hand, there are from time to time matters of great principle where it is important to stand up and take a position. I say to my friend, Senator LOTT, that I can't think of a better example in the 13 years I have been here of standing steadfast for principle when it counted than the performance of the distinguished majority leader over the last 3 weeks.

I thank him on behalf of all the members of our conference, the vast majority of whom agree with the Senator from Kentucky and the Senator from Mississippi.

I yield the floor.

Mr. LOTT. Mr. President, I believe we are ready to return to the debate that was underway, so I will yield the floor at this time.

DISAPPROVAL ACT

The Senate continued with the consideration of the bill.

Mr. BURNS. Mr. President, we still have two more Senators who have indicated to us they wished to make statements on this particular issue, and we will give them a chance to get here. I warn Senators they should come to the floor and make their statements now because we want to get to a vote on this issue. We have other business pending in the Senate that we would like to get to. But if those Senators can get to the floor and make those statements, we will wait a few minutes on them. If not, then I would choose, with the permission of the leadership, to move to third reading on this bill.

In the meantime, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. I rise today in support of S. 1292, a bill to disapproved of President's Clinton decision to veto over 30 military construction projects.

I will add, Mr. President, I am a proponent of the line-item veto. I believe the line-item veto can be an effective tool to eliminate wasteful spending but I believe the fact that the White House now admits it used faulty data when it decided to veto a number of military construction projects demonstrates that this important authority must be used wisely and carefully.

I would like to speak for a moment about the two military construction projects the President vetoed in the State of Idaho. Both projects were intended to support the combat requirements of the 366th Composite Wing based at Mountain Home Air Force Base.

A recent letter to me from Secretary of Defense Cohen described the critical role played by the 366th Composite Wing: ''As one of the first units to deploy to a problem area, it has the responsibility to neutralize enemy forces. It must maintain peak readiness to respond rapidly and effectively to diverse situations and conflicts.''

In an ironic twist of fate, the 366th was doing its mission on deployment in the Persian Gulf when the President took inaccurate information, provided by the Air Force, and vetoed two projects intended to support the combat effectiveness of this unit.

President Clinton used his line-item veto pen to delete $9.2 million for an avionics facility for the B–1 bombers and $3.7 million for a squadron operations facility for an F–15 squadron.

In his veto statement, the President claimed the vetoed construction projects could not be started in fiscal year 1998 because there was no design work on the proposed projects. This assertion has now been proven false by a letter from the Deputy Secretary of Defense, John Hamre, which now acknowledges that the DOD provided inaccurate data about the status of design work.

With respect to the two projects at Mountain Home Air Force Base, the outdated Air Force data provided to the White House listed both projects at zero percent design when in fact, as now verified by Air Force, both projects are in fact over 35 percent designed. Moreover, before any of these projects could be included in the fiscal year 1998 Defense authorization bill, the services were required to certify that each of the projects could be initiated in fiscal year 1998 and that is what they did, without exception.

As my colleagues know, the Department of Defense puts together a future years defense plan which projects the DOD budget 6 years into the future. Regarding the two projects at Mountain Home, I note that the avionics facility is contained in the Air Force's 1999 budget and the F–15 squadron operations facility is contained in the service's 2000 budget.

As the President ponders the use of the line-item veto, I think there needs to be dialog with the legislative branch. If there had been dialog, we might have been able to point out the faulty data being used by the White House that was provided by the U.S. Air Force.

Early this year Congress and the President reached an historic agreement to balance the budget and increase defense spending above the President's request. Congress went through its normal deliberative process and we used the additional defense dollars to move forward funding for projects on the service's unfunded requirements lists. Indeed, the B–1 avionics facility was one of the top 10 unfunded military construction projects identified by the Air Force. In addition, the funds were within the budget caps agreed to by the Congress and the President.

Let me read a document, prepared by the 366th Wing, which explains why we need the B–1 avionics facility. This was written by the civil engineer at the base avionics facility:

Current facility is inefficient, aging, wooden building misconfigured for avionics functions. Numerous false alarms in the fire suppression systems cause excessive avionics support equipment down-time and often cause damage to test equipment. This facility supports over $1 billion of avionics equipment for the wing's fighter aircraft with $115 million in testing equipment. Current avionics facility is approximately one-half the size required for all the wing's aircraft and has severe operational problems supporting fighter aircraft of this wing. About 33,000 sq. ft. of the existing 54,000 sq. ft. facility is condemned for personnel usage. B–1 avionics is currently being maintained at Ellsworth AFB, South Dakota due to inadequate facilities at this base. Engineering estimates by the Army Corps of Engineers found the current facility is uneconomical to renovate. Construction of a new facility collocating avionics for the B–1 and fighter aircraft is the most economical solution and finalizes the B–1 beddown program.

The Office of Management and Budget and the Deputy Secretary of Defense acknowledge the President used outdated and inaccurate data to make his decisions. The Senate should give the President another opportunity to do the right thing and pass the pending disapproval legislation.

Let me thank the chairman of the Senate Appropriations Committee, Senator STEVENS, and the ranking member, Senator BYRD for their quick and decisive action to bring this important legislation to the Senate floor. I urge my colleagues to support the pending legislation.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I think the Senator from Idaho has brought up a good point making the case for his facility because I think we found this throughout this whole message from the administration, that, again, they don't give us the criteria before we finally pass the conference report and send it down there. All at once, then the criteria change. I guess that should not surprise me. We ought to get used to dealing with folks who have goalposts on wheels; they sort of change every now and again.

I hope we could make it through this thing and the Members realize that every project has been through the screens, two or three of them. The ranking member on this subcommittee, the chairman, and the ranking member of the full committee have set their satchel down, set certain standards, and we tried to meet those standards.

I thank the Senator from Idaho for his comments.

Mr. KEMPTHORNE. Mr. President, will the Senator yield?

Mr. BURNS. I will yield.

Mr. KEMPTHORNE. It is just for a question.

Would the Senator from Montana agree with me that as we are provided the data, although the idea was that these projects were not necessary, were not needed, yet we find they are in the President's own budget for the very next year or the year following that? And, since we have all of this data and we have established, through written information from the Air Force, the inaccuracy of the data that they provided the White House, the President and the White House should not find themselves in a situation where they feel they have drawn a line in the sand and there is no way they can back away from this; that it is best for the Nation and our national defense for the White House to acknowledge that, based on inaccurate data, we all should review this and come to a different conclusion, and that is to allow these projects to go forward?

Mr. BURNS. One advantage of the line-item veto right now is it demands

of us a dialog with the people who have to administer the programs. That is good. So I agree with the Senator's statement wholeheartedly, and I thank the Senator from Idaho.

I yield to the Senator from New Mexico.

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

Mr. DOMENICI. Mr. President, are we on a time limitation?

The PRESIDING OFFICER. The time is controlled.

Mr. DOMENICI. I did not hear the Chair.

The PRESIDING OFFICER. The time is controlled.

Mr. DOMENICI. How much time does the Senator have?

The PRESIDING OFFICER. The Senator has 4 hours remaining.

Mr. DOMENICI. I didn't want to cut some other Senator short, but clearly——

Mr. BURNS. How much of that 4 hours would you like, Senator?

Mr. DOMENICI. I am not going to impinge on anybody with my remarks. I have been in another hearing and for that reason I have been trying to get recognition as soon as I can, and I will be as brief as I can.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. Mr. President, I rise today in support of the resolution of disapproval of the fiscal year 1998 military construction appropriations bill. In his special veto message, the President offered the following three criteria for each of the canceled items: ''The project is being canceled for because:

''First, it was not requested in the President's fiscal year 1998 budget; second, it would not substantially improve the quality of life of military service members and their families; and third, architectural engineering and design of this project has not started, making it unlikely that these funds can be used for construction during fiscal year 1998.''

Mr. President, the Congress gave the President line-item veto authority to eliminate unnecessary and wasteful spending. The Congress examined all of these projects very carefully and found them to be merit worthy and mission essential. In fact, the Appropriations Committee used stringent criteria including:

First, whether the project was mission essential; second, whether the project will enhance readiness, safety, or working conditions for service personnel; third, whether a site has been identified for the project; fourth, whether any money has been spent on the design or the project; fifth, whether the Department can begin to execute the project during fiscal year 1998; and, sixth, whether the project was included in the Department's future year defense plan.

Mr. President, these projects substantially meet the criteria established by the Appropriations Committee. Moreover, the Appropriations Committee worked closely with the military services in crafting its bill. In contrast, it is widely known that the President neglected to consult the military services in deciding which projects should be vetoed on this bill.

First, I want to make clear that if the President thinks that the only good project is one that he recommends, then he will continue to meet strong opposition in the Congress. I remind the President that article I, section 8, of the Constitution gives the Congress the right to raise and support armies. That means that if the Congress believes that a particular project will support the needs and requirements of the military that is not only their right, but their responsibility, to do so.

I am heartened by the fact that the President has used his line-item veto pen more sparingly on the various appropriations bills that have been sent to him since this military construction bill. However, Mr. President, let's be clear about his action on this particular bill. I believe it was an abuse of his authority for three reasons. First, vetoing these projects will not eliminate unnecessary or wasteful spending. Second, it is clear that none of the spending in this bill violates the budget agreement. Finally, using the President's own criteria, it is clear that the President made several errors.

On October 6, 1997, the chairman of the Appropriations Committee conducted a hearing to review the status of the 38 vetoed projects. Throughout the hearing, Senators asked the witnesses whether particular vetoed projects met the criteria as set out by the President. Most questions centered on the issue of whether each project could be executed in fiscal year 1998 and if that project were mission essential. In every case, Mr. President, the answers were affirmative.

Among the items the President vetoed were two New Mexico projects. The first project was $14 million for the construction of a new building for the theater air command control and simulation facility [TACCSF] at Kirtland Air Force Base [KAFB]. This project is in the Department's fiscal year 2002 budget. It is mission essential; 35 percent of the design has been completed with $1.4 million the Congress appropriated last year for this purpose. A site has been chosen for the project, and it is executable this year. Clearly, Mr. President, the President made a serious error in vetoing this project.

The TACCSF is the only facility where fighter crews, command control personnel, and air defense teams operate together in a realistic virtual war fighting environment. TACCSF allows Air Force war fighters to train with Army and Marine personnel under one roof, often their only opportunity to rehearse shoot-don't shoot procedures in a complex friend or foe environment.

Expanding TACCSF's simulation capabilities will support cost-effective development of Air Force systems. TACCSF has flexible simulation architecture that allows new concepts, components, or procedures to be tested in a virtual environment, giving hands-on experience years prior to first prototype—user feedback during early design results in enormous development cost savings.

TACCSF's present building does not allow for any expansion. A new facility is needed to meet growth needs. It is impossible to expand the current facility sufficiently to accommodate the simulators, supporting infrastructure and personnel growth needed to maintain TACCSF's preeminent capabilities. Failure to provide the requested new facility seriously jeopardizes TACCSF's ability to support DOD and the Air Force's vision for modeling and simulation in support of the war fighter.

The second project the President vetoed was $6.9 million for the launch complex revitalization program at White Sands missile range. Once again, using the President's own criteria, he made a serious error. This project will substantially improve the quality of life of military service members, 10 percent of the design has been completed, and the project is executable in fiscal year 1998. The project is mission essential and there is no question that it will enhance safety.

Four launch complexes at WSMR are suffering from deterioration in crumbling structures, failing facility components and below-par sanitary and sewage systems. Many of the complex facilities do not meet current safety laws and regulations. Adequate fire detection and suppression systems do not exist in the buildings and explosive handling areas. WSMR spokesmen have stated, ''This totally involves a safety issue. There's quite a bit of activity that is conducted at these launch complexes. It is a potential breeding ground for hantavirus if infrastructure improvements to these areas is not made.'' Moreover, Mr. President, the commanding general of WSMR stated in a letter to the delegation members that he was very concerned about the safety of his people who worked in these facilities.

Mr. President, the President made serious errors on both these projects. All of them are mission essential and can be executed in fiscal year 1998. The Presidents' arbitrary and unfair exercise of his power demands the Congress' action. I applaud the chairman and ranking member for acting timely on this matter. I strongly support it, and hope my colleagues will do the same.

Mr. President, I have a letter dated April 18, 1997, from General Laws, Brigadier General, U.S. Army, Commanding General at White Sands missile range, to House of Representatives Member from New Mexico, the Hon. JOE SKEEN. I ask unanimous consent that be printed in the RECORD.

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

DEPARTMENT OF THE ARMY,
August 18, 1997.

Hon. JOE R. SKEEN,
House of Representatives,
Washington, DC.

DEAR MR. SKEEN: This information is provided in response to your question on the health and safety matters at launch facilities at White Sands Missile Range. As you are aware from your recent visit to White Sands Missile Range (WSMR), extensive parts of our infrastructure, particularly the vital launch complexes, are in disrepair or an unserviceable. Many of these conditions entail critical safety and environmental problems that earnestly must be addressed as soon as possible.

Recently, we were required to disconnect the water supply that feeds a fire suppression system at a major missile assembly building due to uncontrollable and excessive plumbing leaks. We have many buildings at these launch complexes with inoperable heating and cooling systems. We also have septic systems that have or are failing, and will have to be deactivated due to environmental reasons. The resource reductions of the last several years have exacerbated the already significant backlog of maintenance and repair to the aging infrastructure of WSMR.

Aside from the increasing difficulties for our personnel to accomplish the critical test and evaluation mission for major programs of all the services in DOD, I am very concerned for their safety and health from working in such conditions. I deeply appreciate your consideration of these issues.

Sincerely,

TERRY L. LAWS,
Brigadier General,
U.S. Army, Commanding General.

Mr. DOMENICI. Mr. President, now I would like to talk to my fellow Senators. In particular I would like to talk to the Republicans on this side of the aisle. I say that because I hear some of them asking questions about why were we for line-item veto and how can we justify voting to override the President. If it fits some Senators' concerns on the other side, fine.

Let me just say, fellow Republicans, we took the lead, once we got control of the House and Senate, to pass this new law called line-item veto. I want to make sure everybody understands that we could not have intended to say that we would never override a President's line-item veto. Obviously, when we passed that, inherent in our passage of that measure was the fact that Congress still had to have some significant say about the propriety, the validity, the appropriateness of line-item vetoes. If it means, if we supported the original line-item veto legislation, whatever the President chooses to do under line-item veto, since we voted for that law we have to concede the President's authority, then I don't think any on this side of the aisle would raise their hands and say that is what they voted for line-item veto to mean. I can assure you I did not.

As a matter of fact, I would submit that it is quite right for the Senate of the United States to stand on its two feet and say to the President: You have line-item veto authority but it does not mean you can exercise it any old way you want. The sooner we send that signal to this President—either a Republican President or this one—the sooner you send the signal that there are certain circumstances under which, by virtue of our authority, that we would say ''no'' to a President, the better the President will respect the propriety of the notion that we are equal under the Constitution and that the President didn't gain superiority over appropriations when we passed the line-item veto legislation.

So it is almost as if we have a gift of the right situation to send that signal to the President, because in this case there is no doubt of the following set of circumstances.

No. 1, it is now acknowledged by the White House that many of the line-item vetoes, if not all, were issued and done by the President in error. Nobody will come to this floor and deny that. The problem is, they won't tell us how many are in error. We have concluded that almost every one that is on this list, in this bill of override, is in error, if we believed the statements by the White House as to why the line-item veto was used in the first place. We went through each one. We put the financial management officers for the three armed services in front of the Appropriations Committee and asked them the questions that related, not to something we dreamt up, but something the White House told us were the criteria.

Mr. President, they were simple criteria: Is project in the 1998 budget request, or did we just dream it up? Question No. 1. Second, has the engineering and design has started? And tied into that one is that the project contracts could be issued in 1998, the year of this appropriation. And the third one, that it was something that would improve the quality of life of military men and women and their families?

Frankly, we asked the questions of the military financial officers. In almost every one of these 38 projects, they said they were in the Defense Department 5-year plan, or they did do substantial improvement to quality of life, to family life, or third, design had been started and the project could commence during the appropriation year of 1998.

When the White House then says, well, it may be that we in the White House made mistakes; that 18 of these vetoed projects don't fit our own criteria; it may be that 16 didn't fit our criteria—in any event, we are not going to tell you exactly which ones. I say to the Senators who are wondering whether they should vote for this, that is enough to vote for the override. If you ever want to change the power structure, then let a President get by with that. He line-item vetoes and then he says, ''I made a mistake, but I am sticking with them and I am not going to tell you which ones I made a mistake on.'' If you can't discern that, then it seems to me you have to send it back to him with a great big vote in the Senate and the House saying, ''Since you won't tell us, we are giving them all back to you. And if you send them back, we are going to adopt them in law and override your veto, because you haven't squared with us.''

I can think of some other reasons. Each Senator who voted for the line-item veto and who is worried about whether he can now vote to override, I ask just a simple question. Did you really mean you would never override? Of course you would say no. If you meant you might override sometimes, what is a more perfect case than this? You have two reasons: The projects are bona fide projects that meet any reasonable criteria; and the President will not tell us which ones are incorrectly vetoes, although he says there are some, that don't fit the criteria.

I know there are some former Governors in the Senate who are going to speak to line-item veto. I don't know which way they are coming down on this. But I take it from many Governors that they never had such a large argument over line-item veto in many years of being Governors; that all of a sudden you get 38 projects out of one bill, $287 million, and they don't know why it was done or why others were left in.

So, from our standpoint, this is the appropriate time to send a signal that line-item veto is not a one-way street; that Congress has a role. If it is not used reasonably and rationally as a policy instrument, then it will be overridden, and I hope we do that. I hope it is a very big bipartisan vote, because I think it is apt to be the same in the U.S. House of Representatives. We will start this process off on the right track.

Mr. President, I ask unanimous consent that that a table from the Congressional Budget Office comparing the pending bill to the President's original line-item veto message be printed in the RECORD.

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

EFFECT OF S. 1292, DISAPPROVING CANCELLATIONS MADE BY THE PRESIDENT ON OCTOBER 6, 1997, REGARDING P.L. 105–45

[By fiscal year, in millions of dollars]

	Budget Authority	Outlays				
		1998	1999	2000	2001	2002
Total CBO estimate of cancellations made by the President to P.L. 105–45	287	28	102	79	46	16
Projects not disapproved in S. 1292, as reported in the Senate						
Military Construction, Navy						
Chemical-Biological Warfare Detection Center, Crane Naval Surface Warfare Center, IN (97–15)	4	8	2	1	1	([1])
Military Construction, Air Force Reserve						
Base Civil Engineer Complex, Grissom Air Reserve Base, IN (97–16)	9	1	4	2	1	1
Aerial Port Training Facility, Mitchell Air Reserve Station, WI (97–41)	4	1	2	1	1	([1])
Total, Military Construction, Air Force Reserve	13	2	6	3	2	1
Military Construction, Army National Guard						
Aviation Support Facility, Rapid City, SD (97–31)	5	([1])	1	2	1	([1])
Total projects not disapproved in S. 1292, as reported in the Senate	22	10	9	6	4	1
Difference between S. 1292 and the President's cancellations	264	18	93	72	42	15

Source: Congressional Budget Office. Note: Details may not add to totals due to rounding. [1]=Less than $500 thousand

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Who yields time?

Mr. GRAHAM. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I am here to speak on two of the specific projects that are covered by this veto and now the proposal to override that veto, and then, second, I will make some remarks based on my own personal experience as to how the relationships between the legislative and the executive branches should function when the Executive has the line-item veto.

First, let me turn to two projects with which I have extensive familiarity.

First, a pier improvement project at the Mayport Naval Station near Jacksonville, FL. Mayport has been designated by the Navy to be the second Atlantic coast major naval facility, the first being Norfolk. In order to carry out this role, it has been determined by the Navy that it is necessary to make certain improvements to the piers that serve Mayport Naval Station. The improvements were included in the 5-year Navy plan.

The Navy made another decision, and that was to utilize a design-build process as the means for constructing these pier improvements. In contrast to a traditional procedure in which a project is fully designed and then contractors bid on those completed designs, design-build merges the creative and the execution stages which one firm is responsible for submitting a bid to both design a project that will meet the needs of the client, in this case the Navy, and then to construct that project. It also has the benefits that the project can be segmented, so that if there are portions of the project that can proceed ahead on a more rapid pace because they are less complex or have less design requirements, they can be doing so.

The result of this design-build process for the Navy has been both a significant savings in time and cost.

A recent study by the Design-Build Institute of America states that over the last 4 years, naval facilities utilizing this design-build process have led to a timesaving of 15 percent over the conventional method of first design, then bid, then build, and a cost savings of 12 percent. That design-build process was determined to be appropriate to this pier improvement at Mayport.

The significance of that, Mr. President, is that it runs in conflict with one of the criteria that the President used in determining which projects to veto, because one of those criteria was, was this project one which had been designed and, therefore, construction could commence in this fiscal year? In the case of a design-build project, you don't have a separate sequence of design. The design and the construction project are issued as one.

In the case of Mayport, the Navy expectation is that they will issue their design-build contract in March of 1998. At this point, some of the real benefits of design-build begin to take effect. As an example, the toe wall of these particular piers will use a similar design to the toe wall of piers that are immediately adjacent, and, therefore, the expectation is that they will use the same designs which have already been done, therefore allowing the construction work on the toe wall to commence in June of 1998.

Another important component of this pier improvement is to add a new electrical circuit so that the ships which have higher electrical demand today, because of all of their computerization and other electronics, will be adequately served. This electrical work represents a fifth circuit to the already existing four circuits. And so, again, no significant new design work will be required. It is expected that the electrical construction work will also commence in June of 1998.

So the facts of this case are that, if the purpose of that standard, which was, is the design complete so construction can start? has been met, the only difference is because this is a design-build contract as opposed to a traditional contract, you can't answer the question, is there a completed set of designs here ready to be bid upon? It is ironic that the design-build process was specifically recognized and applauded in the reinvention-of-Government study that was done in 1993 as the wave of the future as to how the Federal Government should go about much of its construction activity.

So, Mr. President, with that background on Mayport, I believe this clearly is one of those projects where the facts do not substantiate the reasoning that was given as the basis of the veto. We have an important project meeting a clear national defense need which the Navy has stated should be completed within the 5-year plan. The Navy has selected a design-build process which will result in construction commencing on important elements of this pier improvement in June of 1998.

The second item which is of concern to me relates to Whiting Field, a major Navy aviation training center in Santa Rosa County, FL. Whiting Field is the centerpiece of actually a series of fields of runways and other training facilities that are located throughout northwest Florida and south Alabama.

The Air Force and the Navy have decided on an eminently reasonable new joint project, and that is, that rather than having the basic training of naval aviators being done exclusively by the Navy and Air Force aviators being done exclusively by the Air Force, that they will develop joint training at the primary and advanced levels. Whiting Field has been designated as the field upon which approximately half of the primary training for both Air Force and Navy pilots will occur.

A new aircraft has been selected, called JPATS, which will serve the needs of both the Navy and the Air Force. This new aircraft has some different requirements than the aircraft which the Navy has used for many years at Whiting Field. One of those is a slightly longer runway for safety purposes. It is a somewhat higher performance aircraft.

In this legislation was $1.2 million to add to the length of one of the outlying fields which serves Whiting, which happens to be located in Brewton, AL. Also, as part of this $1.2 million, will be a safety zone built around one of these runways in order to enhance the safety for aviators with this new higher performance JPATS aircraft. Again, this is in the Navy's 5-year plan. The JPATS aircraft are going to be delivered in the year 2000.

The work to be done is not high-tech, it is the extension of an existing runway, and, therefore, the development of complicated designs is not relevant to the project to be performed. Therefore,

again, the rationale for the veto, which was that unless design had been conducted, assumedly construction could not start in the fiscal year and, therefore, the project became a candidate and, in fact, a victim of the President's veto.

Just as the project at Mayport, this meets all the tests. In this case, the Navy and the Air Force have agreed that this is a needed project to secure an important new joint relationship between our two principal aviation services which will result in significant savings to the Nation and, hopefully, enhancements in the quality of training and the jointness of training of the Air Force and the Navy.

I had the opportunity to visit Whiting Field in August of this year, and I can state from personal experience and discussions with the leadership of this important naval facility that there is great commitment to seeing that this joint training is a success and a contribution to the Nation's security. All this is going to have a key date of the year 2000 when the new aircraft begin to be delivered.

So, Mr. President, I urge that these and the other projects that are contained in the legislation to override the President's veto be supported, because I believe they are the kind of projects which the Nation will need for its long-term national security. I commend the leadership of the Appropriations Committee and the Military Construction Subcommittee for their careful attention to these two projects.

If I can take a brief period to comment about the line-item veto process. I was Governor of the State of Florida for 8 years with the line-item veto authority, and I utilized that authority where I thought appropriate. I believe that the most significant use of the line-item veto is in its deterrence effect. The fact that legislators who might be inclined to submit and seek passage of a project that did not have the positive qualities of Mayport and Whiting Field would be inclined to do so but for the fact that they knew the Executive could identify them as being inappropriate and, therefore, subject that sponsoring legislator to the public scrutiny of having advanced such a proposal.

But I believe for that deterrence to be effective, there are some requirements on the side of the executive branch which were not met in this first test of the line-item veto at the Federal level.

Two of those requirements are, first, no surprises. Neither of these projects are new to the Navy, to the Air Force, to the Office of Management and Budget, to the White House. These projects represent the completion of important previously determined military priorities: Mayport as the second naval port on the Atlantic coast; joint training of Air Force and naval aviators.

Therefore, as these two projects moved through the appropriations process, there were plenty of opportunities, if it was felt that they were going to be subject to veto, to have sent up such a signal. No such signal was sent.

The assumption was, since they had the support of the Department of Defense, and they were within the 5-year plan, that they were projects that had a time urgency, that they were appropriate.

In the future, I would urge whoever is the Executive authority to be engaged in this process at a much earlier stage to indicate if there are some problems and what the nature of those concerns will be. As the chairman has indicated, apparently even he did not know what the criteria were to be for these projects until after the Congress had passed the final bill and sent it to the White House for its consideration.

And the second is that after the bill has gone to the White House, and they are looking at these items, if they see an item that they believe is a candidate for veto, they owe it to themselves, they owe it to the sponsoring individuals and agencies, and they owe it to the national objectives which are sought to be achieved to have a frank discussion with the parties who are most knowledgeable so that they can get the facts.

I made an effort on both of these projects to educate who I thought were the appropriate people. Obviously, my attempt at education was not successful. But I am confident that had there been a full opportunity to review the facts that I have briefly submitted here this afternoon, that the White House would have made a different decision relative to these two projects.

So I think, second, that the White House needs to have the practice to bring into the process before the final decision those who are most knowledgeable so that never again will it have to issue statements that: ''I'm sorry I did this. And I did it out of ignorance.'' Ignorance declared is a sign of a person who is ready to enter into confession and redemption, but this process is too important to have very many confessions and redemptions. We ought to try to be operating based on facts and knowledge and the importance to the national security of these significant defense items.

So, Mr. President, with those comments on these two specific projects, and a little unsolicited advice to the White House, I urge a strong Senate vote in favor of this proposal.

I hope that our colleagues in the House will follow suit and the President will see the wisdom of the line-item veto process in its full extension of a dynamic relationship between two equal branches of the U.S. Government. Thank you.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, we have one other scheduled speaker after Senator GRAHAM, and then Senator BYRD has requested some time. But I ask unanimous consent that the vote on S. 1292 take place at 4:30 this afternoon, and reserving 10 minutes for the ranking member of the full committee and recognizing Senator BUMPERS as the next speaker.

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

Mr. BUMPERS. Mr. President, parliamentary inquiry. Who controls the time on this side?

Mr. BYRD. Mr. President, how much time does the Senator need?

Mr. BUMPERS. Ten minutes.

Mr. BYRD. I believe I am in control of time, am I not?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I yield to the Senator 10 minutes.

Mr. BUMPERS. Thank you very much.

Mr. President, we are here today debating this issue which was a political creation in the beginning. It was a terrible idea and in my opinion, plainly unconstitutional. Ronald Reagan was President. He had promised the American people he would balance the budget by 1984 after he was sworn in in 1981. And in 1984 we did not have a balanced budget. On the contrary, deficits were soaring wildly out of control.

And then we begin to hear and read where the President said, ''Well, you can't blame me because, you know, I can't spend a penny that Congress doesn't appropriate.'' And I am not going to belabor that argument, but the next thing we heard was, ''If only the President could pick out all those pork projects and veto them, these deficits wouldn't be soaring out of control.''

First of all, if the President had full line-item veto authority at the time, according to most calculations, the amount of dollar savings as a result of those vetoes would have been infinitesimal in comparison to that staggering deficit. All that line item veto talk was nothing but a sheer diversionary tactic in the face of a promise that had not been kept.

And I do not mean to denigrate President Reagan. But that rhetoric was the genesis of a very bad idea and in my opinion a patently unconstitutional idea.

I am almost bitter, Mr. President, at the passage of this line item veto. The worst thing that can happen to a politician is to allow himself to become cynical or bitter, so I will say that I am elated. I am elated that this day has come.

A lot of the people in this body stood and made magnificent speeches about how wonderful the line-item veto would be. They declared that 80 percent of the American people favored the line-item veto. I understand that; I took a lot of political heat, along with a lot of people on this side of the aisle who stood up against the line item veto. Senator Hatfield, who is no longer in the Senate, stood up against

it, along with a few people on that side of the aisle. We all took unbelievable political heat back home because it was wildly popular. The people had been led to believe, and they did in fact believe that the real problem with the spending habits of Congress was that the President did not have the line-item veto. So I don't know how many times the line item veto proposal was presented in this body, but I promise you I voted no, no, no every time.

So I am elated today because a lot of the people who got a lot of political benefit out of their support for the line item veto are now complaining. They are not saying that it was a mistake to pass it in the first place. No, they say that the trouble is that the President has abused the authority. Regardless of whether the President has properly vetoed these items before us today, I am not surprised at their protests. This is precisely what we told them they could expect if they passed the line-item veto. It is a bad idea, and plainly unconstitutional in the way it transfers the power of the purse to the President.

I heard Senator GRAHAM from Florida about his use of the line-item veto when he was Governor of Florida. I had the line-item veto when I was Governor of Arkansas—and I used it. You know how I used it? I would call a legislator down to my office and say, ''You just voted against that administration bill, and you have a $250,000 appropriation coming for a big project in your district. And I can tell you, that sucker's toast unless you get down there and change your vote.'' That is what I did.

One of the arguments we made here was that the President could cow virtually any Member of the U.S. Senate with a line-item veto. I do not think President Clinton intended to insult Members of this body when he vetoed these 34 items, but it was a terrible political mistake.

Any time you veto bills that affect more than 25 States, you are in trouble. I do not think the President was really thinking about that. Incidentally, he followed me as Governor of Arkansas. And he used the line-item veto pretty extensively when he was Governor. But one of the main reasons I object to it is that it gives the President unbelievable power over the Members of this body. And I can tell you, the Framers of the Constitution never intended for a President to have that kind of power. That is the reason they said: The Congress will pass the laws, and present them to the President, not item by item, but bill by bill.

So, Mr. President, in conclusion, let me say I hope some of my colleagues will take this to heart and not trivialize the Constitution. It is almost contemptuous the way we treat our Constitution sometimes. I have voted for one constitutional amendment since I came to the U.S. Senate. That was the Equal Rights Amendment. I am sorry I voted for that, because it is not necessary. I have voted ''no'' 37 times on constitutional amendments, and ''yes'' once, and I regret that one. That is not to say I will never vote for a constitutional amendment, obviously. I reserve judgment on that.

But the thing that chagrins me more than anything else is that every time somebody comes up with a cute political idea, they want to put it in the Constitution. And I have taken heat on prayer in school and the balanced budget amendment and flag burning and term limits, and court-stripping proposals. I have taken my share of heat on all those things, almost every one of which undeniably was political.

So, as I say, if some of my colleagues—if as many as one colleague today is thinking, ''I regret having voted for this thing. I regret having voted for something that in my heart I knew was unconstitutional,'' I hope those members will think hard about this vote. Let me close, Mr. President, by saying that I am going to vote to uphold the President's veto. That may sound a little bit perverse, I suppose, based on what I have been saying. I do not know all the merits of these 34 items. That probably does not speak well for me, but I can tell you one thing, if one of them affected Arkansas, I would be voting to override it. And this entire package of line item vetoes is going to be overwhelmingly overridden by this body. There may not be five votes to uphold the President.

But I will vote to uphold the veto and I will tell you precisely why. I want to make it so painful to support the line item veto that when we come to our senses and the legislation comes up to repeal the line-item veto, that it will be passed 100 to nothing. So the more pain we inflict, the more likely that is to occur.

Ultimately, I think the line item veto will be repealed. I think that if Senator BYRD could bring up his line-item veto repeal today, I would like to believe it would pass almost 100 to zip. It was a terrible idea. And the time has come when the Senate should think better of it.

I look forward to getting a piece of legislation up here even before the Supreme Court strikes it down. I personally believe the Supreme Court has very little alternative but to declare this thing unconstitutional when it is presented to them by somebody with standing.

So, Mr. President, this is really a happy day for me, now that the Senate is addressing this item.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield the distinguished Senator from Virginia [Mr. ROBB] 10 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 10 minutes.

Mr. ROBB. Thank you, Mr. President.

And I thank the distinguished senior Senator from West Virginia for yielding me time because he knows, as I have already alerted him to the fact, that I am going to speak against the position that he has taken for so long and with such eloquence.

And as the distinguished senior Senator from Arkansas departs, let me say, I agree with almost everything he said, save one small part of the speech that he just made. And I have joined him in voting against most of those other amendments.

But I rise today to oppose S. 1292 because I believe the credibility of the Senate is on the line.

Just last year, 69 U.S. Senators voted to give the President line-item veto authority. As a former chief executive who had the line-item veto authority, as indeed most Governors have that authority, I supported that decision. I did not use it in the way the senior Senator from Arkansas used it, but I had the authority. And I support it because I believe that only the President has the singular ability to reconcile the competing spending interests of all 535 Members of Congress and make decisions that will be based on our national interests.

Today, unfortunately, we stand ready to emasculate completely the line-item veto authority.

I realize that many distinguished Members of this body, some of whom have been heard today, many of whom have been heard from on previous occasions, oppose the line-item veto, and have consistently opposed the line-item veto, and indeed believe it is unconstitutional.

I would concede that it is quite possible that the Supreme Court will declare it unconstitutional when they consider it on the merits in a suit brought by plaintiffs who have standing to do so. But let's not pass a bill disapproving the President's veto of nearly every single project he lined out in the military construction appropriations bill.

What credibility can supporters of the line-item veto have if, in the first appropriations bill out of the gate, we vote to disapprove the President's action simply because one of our projects is on the list?

Mr. President, I don't diminish the political difficulty this legislation poses for Members who have projects on this list. I have three projects on the cancellation list that are in my home State of Virginia. Since I believe these projects have merit, I will work to fund them in future bills. While I do believe strongly that we need to develop some objective criteria for the President to follow when making veto decisions, I never thought that the implementation of the line-item veto would be popular with either the President or Congress.

What I find objectionable about this legislation is that we didn't even try to determine the merits of the President's cancellations except for individual Members within their individual States. Instead, to maximize political

support, we gave, in effect, every Senator line-item veto authority in reverse—allowing each Member to decide whether appropriations for his or her own projects would be restored. The result is that funding for 34 of the 38 projects vetoed by the President are included in this bill.

Is that what line-item veto supporters had in mind last year? It is certainly not what I had in mind, Mr. President.

Mr. President, quite simply, this legislation is a test of our resolve to stick by our decision to impose a measure of fiscal discipline on the appropriations process. We gave the President the authority. We expected him to use it. Even those who opposed the legislation expected him to use it. And he did. I am simply not prepared to say that all of the President's actions were totally without justification.

Mr. President, I urge my colleagues to vote against this disapproval bill. Passage of this bill will increase the deficit and set a dangerous precedent that I believe will lead to the emasculation of the line-item veto. But most importantly, Mr. President, passage of this bill would illustrate once again our own failure to make the tough choices, our own failure to be fiscally responsible.

Mr. President, I am under no illusions about what is going to happen in this particular case. But I hope before Senators cast their votes, they will think about what it was they thought they were doing when they voted for the line-item veto last year and vote in accordance with the convictions they had last year when they vote on this bill this year.

With that, Mr. President, I yield the floor, with particular thanks to the distinguished senior Senator from West Virginia, who knew I was going to speak against the legislation, which I know he has so eloquently opposed for so very long.

Mr. STEVENS. I understand the position of the Senator from Virginia, but I would like him to consider this: We had $800 million allocated to the military construction budget out of the budget agreement that was entered into with the President. That still left us $700 million below the 1997 level. The action of the President in vetoing 38 projects here has removed $287 million from that.

If this bill does not pass, that money is gone. But not only is it gone, the President has announced the 18 he made a mistake on he will fund by reprogramming over other money. So the net result of the President's veto is an excess of $450 million that is lost from the defense budget this year.

Now, it was a mistake. This was not a line-item veto that made sense. It was a sheer mistake. They will not tell us which projects, by the way, he made a mistake on. I wonder if the Senator from Virginia knows that?

The net result of not passing this bill will be that almost half a billion of the money that we got through the negotiations with the President to increase the defense budget will be gone forever, including quality-of-life projects, barracks, mess halls, housing. I ask the Senator, how can you justify voting for this if you are in favor of the line-item veto?

I was the chairman of the Senate conference on the line-item veto. I know the requirements of the line-item veto law. The President did not follow it. He did not establish criteria. He announced the criteria after—after—after the decision was made.

In the case of Virginia, as the Senator pointed out, the criteria didn't fit the Virginia projects. That was true on 36 of the 38 projects. Those 36 are in this bill.

Now, I say to my friend from Virginia, bad facts make bad law. If this bill doesn't pass, I guarantee the Senator from Virginia, this case will be taken to the courts, and if it is taken to the courts, this will be the vehicle that will lead to the destruction of the line-item veto.

We are coming at it from different directions, the Senator from Virginia and I. I still believe in the line-item veto, but if the President's veto is not overridden, I will join the Senator from West Virginia in seeking to repeal the line-item veto, because this is wrong. This is arrogance, an abuse of power, and it is an overwhelming mistake on the part of the executive branch.

I thank the Senator for listening to me. If the Senator from Virginia wishes to have time to respond, I yield from our time.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Virginia is recognized.

Mr. ROBB. Thank you, Mr. President. I would like to respond very briefly to my friend and colleague and the distinguished senior Senator from Alaska, for whom I have enormous respect.

I suggest two things: No. 1, that I share the concern about the imperfect process that was followed in this particular instance. I have shared my concerns directly with the White House, and I hope we will not have a repeat of the lack of prior consultation, et cetera. So I am not in disagreement with that particular aspect.

But the matter of how many dollars are actually involved is not the issue, as far as I'm concerned. It is the principle. If we believe that the President ought to have this particular authority because we believe only a President can reconcile all of the disparate interests of 535 Members of Congress who may have an interest in a project that may not have true national interest, then we have given him the authority to veto that particular item, and given us an opportunity to override it.

If this particular legislation were designed to collect only those about which there was agreement or only those individual projects which we could consider on their merit, I might well support the distinguished Senator's bill.

My objection with this legislation is that we have, in effect, taken every single request by any Senator who asked to have one of the items that was vetoed included in this bill and said, ''We are going to, in one single bill, notwithstanding whatever merit or lack of merit may be evident in these particular items, we are going to tell the President he can't do that.'' I simply disagree.

Second, I disagree with the principle that if you are for the line-item veto in principle but can't stand the heat when it applies to a project in your particular district, then, indeed, you ought not to be for the line-item veto.

I would not argue with the basic premise of the Senator's remarks that if the distinguished senior Senator from West Virginia's legislation to repeal the line-item veto were offered again today, that it might well garner overwhelming support, although I am in a position to suggest that it might not be unanimous.

Mr. STEVENS. There is no Alaska project that was eliminated by the President.

Second, the difficulty that I really have with what the Senator has said is the line-item veto was intended to eliminate waste or projects that would lead to a deficit. We asked for the list. Can the Senator now tell me what 18 or 19 projects the President made a mistake on? Can he give us a list? We never got a list. We have 36 to 38 projects in this bill—because we never got a list from the White House as to what projects the President admitted were erroneously line-item vetoed.

Mr. ROBB. If the Senator will yield to respond on that particular matter, Mr. President, I remind the distinguished Senator from Alaska that I could not agree with him more. I think it is wrong.

I agree with the Senator from Arizona, with whom I discussed the problem earlier, that we ought to establish clear criteria, and those criteria ought to be made known to those who would be affected by them, as well as all the rest of the Members of this body.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. While the distinguished Senator from Virginia is on the floor, I disagree with the Senator in suggesting that we all ought to enter into some kind of an agreement with the White House as to what the criteria ought to be in applying the line-item veto. I think if we do that, we are further legitimizing what is an illegitimate end run around the Constitution. I'm not for entering into such agreements concerning criteria.

While I have the floor, I am not supporting this measure because it has an item in it that was wrongfully vetoed by the President and because that item is now included in this resolution. I'm supporting it because I think the administration was arbitrary and capricious in exercising the line-item veto

in the way it used it. That is why I have said that Senators can vote for this resolution even though they support the line-item veto. A vote for this resolution doesn't mean they support the line-item veto, nor does it mean they are against the line-item veto.

It says that Senators believe that the administration, in applying the line-item veto, acted capriciously, acted arbitrarily, acted without justification, acted without a credible basis. That is what Senators are voting on. That is why I hope they will all vote for the resolution.

May I say to the distinguished Senator from Virginia, don't count me in when it comes to helping the administration to establish criteria by which it will apply this infernal, nefarious line-item veto.

Mr. ROBB. Mr. President, I simply acknowledge that no one has been more eloquent or consistent in their position that this is not appropriate legislation. From the very time that I entered this body I have known that the distinguished Senator, who was then chairman of the Appropriations Committee, felt that this was not a proper allocation of power under the Constitution, that it should be reserved for the legislative body. It was not appropriate to give this to the executive branch.

We have a disagreement on that matter in terms of the distribution of power, but as to the interpretation of the Constitution, I suspect that the Court will probably ultimately verify or validate the distinguished Senator's views and this debate may be moot.

My concern today, and I accept the Senator's view that nothing in West Virginia is included, but I am concerned if there were 69 of us, if that indeed is the count, who were willing to vote for the line-item veto and now come back simply because there is an item in our States and say we are against it because it happened to gore the ox in our pasture, then we are not maintaining the kind of principle that most Members of this legislative branch believe in in all the other dealings they take part in.

Mr. BYRD. Mr. President, I am not willing to assume that the President has a monopoly on wisdom. I have represented the people of West Virginia now for 51 years in one office or another. I think I have a pretty good idea of what they need, what they want, and so on.

But in this particular instance, the item that was vetoed for West Virginia was on the Department of Defense's 5-year plan.

He vetoed the item that would have been in West Virginia, and I say, let's give it right back to him by his own criteria. He made a mistake in vetoing it. I say let's put it right back on the President's desk, let him exercise his constitutional veto, and then let the Congress exercise its constitutional option of either overriding that veto or sustaining it.

I have sat right here and listened to three former Governors talk about the line-item veto. What is beyond my comprehension is how Senators can confuse the so-called line-item veto at the State level with the line-item veto at the Federal level. They are two different spheres of action. The distinguished Senator from Florida, the distinguished Senator from Virginia, and the distinguished Senator from Arkansas, all three of whom are former Governors, came from States that have the line-item veto. Well, so what? As Governors, they were acting under the constitutions of the State of Virginia, the State of Florida, and the State of Arkansas. But now they are operating under the aegis of the United States Constitution. They are two different things. I don't find the constitution of the State of Virginia written into the U.S. Constitution. I don't find the constitution of the State of Florida written into the U.S. Constitution. The U.S. Constitution refers to legislative powers ''vested in a Congress of the United States.''

Mr. ROBB. Will the Senator yield on that point?

Mr. BYRD. Yes.

Mr. ROBB. With all due respect to the distinguished senior Senator from West Virginia, that is the reason that we are proposing, proposed, and have effected the line-item veto, and propose it as a constitutional amendment, recognizing that the Constitution of the United States did not grant this power to the President that it grants to 40-some Governors and their respective States.

Mr. BYRD. We are talking about two different powers. We are talking about the powers that the 47 Governors have, dealing with the so-called line-item veto. Those are powers under their State constitutions. But the Senator from Virginia is no longer a Governor; he is a Senator. The Senator from Florida is not a Governor any longer, and he is not to be governed in his actions here by the constitution of the State of Florida; he is to be governed here by the oath he took to support and defend the U.S. Constitution—not the constitution of the State of West Virginia, not the constitution of the State of Virginia, but the United States Constitution. That is the Constitution by which we are governed here.

The line of demarcation, the line of separation of powers, the line of checks and balances is more strictly delineated at the Federal level. It is more strictly drawn, more finely drawn at the Federal level than it is at the State level.

Mr. ROBB. Will the Senator yield further?

Mr. BYRD. Yes.

Mr. ROBB. Mr. President, without the power to amend, this Senator will observe that we would not have had the Bill of Rights, much less the other amendments to the Constitution. So there is a procedure that is set forth for subsequent generations to reconsider the wisdom of the Founding Fathers, and it appears that the Founding Fathers accepted the fact that there might have to be some changes even in their seminal document, the Constitution.

I don't intend to continue the debate, Mr. President, with the distinguished senior Senator from West Virginia. I understand his point of view. I respect him and I respect him for it. I expect that this particular bill will probably achieve something in excess of 95 votes. So I am not sure that we need to protract the debate on this particular issue.

Mr. BYRD. Mr. President, I don't intend to protract the debate. But I agree that if this is going to be done, if we are going to have the line-item veto, let it be done the way the framers provided that it be done; namely, through an amendment to the U.S. Constitution, not by statute. I don't think we can do it by law. I do hope that the High Court of the United States will uphold the contention that I am making and will strike this infernal and nefarious law dead, dead, dead!

I thank the distinguished Senator. How much time does the Senator from New Mexico need?

Mr. BINGAMAN. I will ask for 5 minutes.

Mr. BYRD. I yield the Senator 5 minutes. I believe the Senator from New York wants 5 minutes also, and I will yield him that time when he comes in.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me talk separately about two issues. One is this Senate resolution disapproving the cancellations that were transmitted by the President resulting in this S. 1292.

Let me first indicate the reasons that I support the resolution, and then I will say a few things about the line-item veto issue, the larger issue that the Senator and others have been discussing here. First, I do support the legislation, S. 1292, for the simple reason that I believe the administration acted to cancel worthy projects on the basis of erroneous information and that it is our duty in the Congress to override that decision if we have the votes to do that. The administration has admitted as much to us in a statement that we received today, and the President continues to insist that he will not allow the passage of this resolution to be signed into law.

At a minimum, I believe that if this override effort proves unsuccessful, the administration owes it to the military personnel in the country and to their families and to those of us in Congress to ensure that there is funding provided for the projects that were incorrectly included in the President's line-item veto package. The Senate received a statement from the administration today indicating that some military construction projects that the President vetoed were canceled on the basis of erroneous information. Mr.

President, that is exactly what happened on the two projects that I am most familiar with, the two in New Mexico. The project at Kirtland Air Force Base and White Sands Range.

In both of those cases, we had information from the Department of Defense indicating that those projects had been substantially designed, and they were ready to be executed in this fiscal year, and as such, they did not meet this criteria that the President has indicated he used and the Office of Management and Budget used in deciding which items to line-item veto.

In fact, I had a conversation with Franklin Raines, head of the Office of Management and Budget, on the day that the decision was announced by the President, and I discussed with him the information we have received from the Department of Defense and how it conflicted with the information that he had which he was urging the President to use in making the decision.

So I am persuaded that the decision as to those two projects was based on erroneous information. I believe, based on what the President has indicated in his letter to us, that the decisions on many other projects were also based on erroneous information. So I believe it is in our best interest and it is our duty, in fact, to go ahead and pass this legislation. I intend to vote for it.

Let me say a couple words about the line-item veto itself. I am not one who supported the line-item veto legislation. I opposed it for many of the reasons that the Senator from West Virginia has articulated so well here on the Senate floor. First of all, I don't believe it is good policy. I think the Founding Fathers had it right when they determined that this was not a power that should be granted to the President, and so I support the basic structure that was put into our Constitution.

Second, if we were going to try to enact some type of line-item veto and grant that authority to the President, it cannot be done by statute; we would have to amend the Constitution. We would have to go through the very elaborate procedure set up in the Constitution to amend the Constitution. Clearly, that was not done in this legislation.

Let me also say that all the debate over the last several years in the Congress about the line-item veto has been an effort to describe it as something which was needed in order to impose fiscal responsibility on the Government. My experience here in the Congress has led me to conclude that fiscal irresponsibility is just as much a result of action in the executive branch as it is a result of action here in the Congress. There are many instances where those of us in Congress are fiscally irresponsible. I have witnessed that on many occasions. But I have also witnessed many examples where the executive branch and the President in the budget sent to the Congress were also fiscally irresponsible. So I don't think the case has been made that fiscal irresponsibility is just a province of the Congress.

I do believe we should pass this resolution. I believe that the Supreme Court, when it gets the opportunity, will declare the legislation that enacts the line-item veto to be unconstitutional. I believe the issue will be back before us at that time to see whether we want to do a constitutional amendment. I will urge my colleagues not to do a constitutional amendment at that time.

I yield the floor, Mr. President. I appreciate the time.

Mr. STEVENS. How much time remains, Mr. President?

The PRESIDING OFFICER. The majority has 12 minutes 37 seconds, plus 10 minutes to close, which has been allocated separately. The minority has used up all their time, but they still have 10 minutes to close.

Mr. STEVENS. I yield such time to the Senator from Texas, from my 12 minutes, as she wishes to use.

Mrs. HUTCHISON. Mr. President, I ask that I be notified if I go over 5 minutes, which I don't expect to do.

Mr. President, I appreciate Senator STEVENS' putting this bill forward, along with Senator BURNS, because I think this is exactly the way the process should work. I am, frankly, puzzled by some of my colleagues who are arguing that they aren't going to vote for this bill because they voted for the line-item veto. I voted for the line-item veto. This is exactly the way the process should work. The President vetoes, and the Congress does not take away its right to disagree with the President. The Congress has not taken away its right to override. In fact, that is part of the process. That is the way it is supposed to work.

I don't accuse the President of partisanship. I think he has vetoed projects that he probably considers were not worthy in States and districts represented by Republicans and Democrats. But I do think the President is wrong. I think the President did not have the facts straight, and I think he has vetoed essential projects that the military has asked for, and I think we need to override this veto. In fact, the President vetoed these measures that are operational. Let me just read you a couple of examples: A repair of the launch facilities for missile systems in White Sands, NM; to expand ammunition supply facilities at Fort Bliss; consolidation of B–1B squadron operations facilities.

These are projects the military has said are essential. They are in the military 5-year plan. The reason they weren't in the President's budget is because the President always comes in below Congress in the military budget. Congress believes the military has certain needs for our readiness, and Congress has increased the President's budget every year since I have been here. So it is not unusual that the President would not have in his budget some of the needs that Congress believes are essential. In fact, the President left in many military construction projects at NATO facilities that are exactly the same type of facilities that he vetoed on American bases.

So I think this is exactly the kind of override that the process calls for. The President did not have his facts. The Department of Defense admits that their data was not up to date. The military asked for these projects. They are very important for readiness. And I think it is time for us to exercise our rights as Congress to override the President's veto, not because we think he was sinister in what he was trying to do but because we think he was wrong.

It is Congress' prerogative to do this. I think it is important that we stand by the needs for the military that we have studied and that we believe are necessary, and that we stand by what we did and override the President's veto.

Thank you, Mr. President.

I yield the floor.

Mr. STEVENS. Mr. President, I will yield to the Senator from New York when he comes. I know he wants to make a statement.

But the Senator from Texas has just made the point that I have been trying to make. This is the process of the Line-Item Veto Act. It is the first time we have attempted to use it. This is the override mechanism that is provided by that act, and it was provided by Congress because mistakes could be made. In this instance we now know that mistakes were made.

The statement came to us today from the Office of Management and Budget that admits there was erroneous material given to the President on which they matched against the criteria that they had used under the Line-Item Veto Act to determine whether any projects should be eliminated. We asked for the list of those projects.

My staff tells me we still have not received the ones that mistakes were made on. We have no alternative under the circumstances than to include them all. There are two here that are not included because of the specific requests of the States involved not to have their projects involved. But the administration has now clearly said on the record that there were mistakes made.

The veto message, as I said, violates the spirit and intent of the balanced budget amendment.

That again is why the override mechanism is in the act. This action taken by the administration does not comply with the act. We have a way of saying to the Presidency we intended that money be spent, and we want it spent for these projects.

Let's look at this criteria again that the administration used.

It set forth three criteria, one of which was that the project had to be in the President's budget by definition. In this instance, that was an erroneous

criteria because the Presidency had agreed to increase the amount of money that was in the President's budget for defense by $2.6 billion. In the budget agreement that was worked out with leadership. Of that $2.6 billion, $800 million of that was allocated to military construction. Nothing came forward from the administration that indicated that it had any desire to decide where that money went.

So our committee allocated the money. In allocating it, we gave money to these 38 projects. Our criteria was they had to be projects that the military supported. We had a hearing after the line-item veto took place. At that hearing the military witnesses stated that every project on the list was supported by the Department of Defense military people. They were essential to the program. And I believe all but five were in the long-range program. The other five were covered by changes in circumstances since the long-range 5-year program was devised. But they were specifically supported by the military witnesses.

The criteria that the Presidency used to determine whether to apply the line-item veto does not stand up to the scrutiny of this Congress.

I am corrected about one thing. One of the criteria was that no design work had been done. The impact of that is that again there were projects where the information was erroneous that was received by the White House. These projects were in fact underway and could be completed in the next fiscal year.

I thank you for telling me about that.

But the problem of the criteria is they were not designed to find projects that were wasteful, or would increase the deficit.

In this instance, I failed to point out that since we obtained the increase in money allocated to our committee for defense we looked into the long-range program, and we brought up into the 1998 year years that are in the long-range program but were specified to commence at a later time. We did that because some money had already been allocated to those projects by the Department of Defense, and those projects could be more efficiently completed if money was available this year.

My point is these are not wasteful projects. No one can claim that there any one of these projects that meets the criteria of the Line-Item Veto Act will increase the deficit. By definition they are within this budget. They are within the amount that the administration agreed could be spent this year for defense. And, second, they are not by definition wasteful.

Those are the two criteria of the Line-Item Veto Act. The President can use the Line-Item Veto Act to eliminate wasteful projects, or projects that would increase the deficit. Neither apply to any one of the 38 projects.

Under the circumstances, Mr. President, having allocated $800 million to military construction, what we find now, as I said just a little while ago, is a line-item veto eliminates $287 million from the $800 million which was part of the $2.6 billion overall increase for defense. The line-item veto eliminated 35 percent of the money we put into projects to use the increased amount which was available for military construction. That means right now that if the administration goes forward with what is stated in this announcement today from OMB that Senator BYRD has read, they will reprogram money from other projects that have already been approved by the Presidency and move it over to the 18 in which the mistakes were made.

What does that do to the rest of the budget? It means that we are paying twice. We have lost the $287 million, if this bill does not pass. And, in addition to that, they are going to take somewhere in the vicinity of $175 million. We believe it will be $450 million not spent for needed projects, if this bill is not passed.

Mr. President, this is the mechanism. That is why I say I will support and, as a matter of fact, introduce a bill to repeal the act, if this mechanism doesn't work. If there is any example where it should work, it is this one. It is admitted that there are 18 projects on which they made mistakes. They refused to tell us which ones.

I don't know how to handle this when people say you can't do this because this violates the spirit of the Line-Item Veto Act. This is the spirit of the Line-Item Veto Act. And I urge Senators who supported the line-item veto to consider that. If this mechanism is ever to work, this is the point where it should work. If it won't work in this one there is no reason to support this act anymore, in my opinion, because this is really the worst example I could think of a situation where information provided to the President leads the President to line-item veto items that were eliminated by mistake.

Another avenue, of course, is for this to go to court. If it goes to court, and the court finds in the final analysis that the line-item veto is unconstitutional, which is what my good friend from West Virginia says, then the money will be restored thereto.

But let's see if the mechanism works. There are already some court challenges. I don't see any reason to have another court challenge to the Line-Item Veto Act. The Senate and the House ought to do its duty on this and the duty is to try to remedy the mistake that was made when the line-item veto was wrongfully exercised in connection with these 38 projects.

Mr. President, I don't see anyone else seeking time.

I ask how much time remains?

The PRESIDING OFFICER. There are 10 minutes for the majority, and there are 10 minutes remaining for the minority prior to the vote.

Mr. STEVENS. I yield the floor.

Mr. BYRD. Mr. President, Senator SARBANES, the distinguished senior Senator from Maryland, is coming to the floor and he wants 5 minutes. I wish to have the Chair alert me when I have remaining 5 minutes. In the meantime, may I address a question to the distinguished Senator from Alaska?

In the statement of administration policy, we are told, and I quote, ''The administration strongly opposes this disapproval bill.''

Well, if I understand it, the administration is willing to work with the Congress in restoring half of these items; half of the items. I cannot understand how it can disapprove the bill when it is willing to restore half of the items that are in the disapproval bill.

Also, the statement of administration policy that comes from the Office of Management and Budget says, ''The President's action saves $287 million in budget authority in 1998.''

In the very next sentence, it says, ''* * * we are committed to working with Congress to restore funding for those projects that were canceled as a result of the data provided by the Department of Defense that was out of date.''

How much is the President's action really saving? He claims to save $287 million by virtue of the exercise of the line-item veto. But he follows in the next sentence, and says, ''* * * we are committed to working with Congress to restore funding * * *''

How much really can the administration claim to have saved?

Mr. STEVENS. It would be very hard, Mr. President, to figure out the net amount. The actual savings would be determined by how much of the projects fall into this year by reprogramming and then how much more money has to be requested next year to pay for the money that is spent for the projects that had been delayed because of the transfer of the money to these projects. I believe that the net will be that there will be $450 million less this year. But I do believe it will increase the cost of defense in later years because of the fact that these projects have been deferred and other projects will be deferred in order to pay for the 18 according to that document.

Mr. BYRD. I thank the distinguished Senator.

I yield the floor.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum, and I ask that it be charged equally to both sides; charge the first 2 minutes to mine, and then bring it down.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I have time remaining. I yield to the Senator

from New York such time as he wishes, and I reserve the remainder of the time to be equally divided between the Senator from West Virginia and myself.

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

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would very much like to thank the senior Senator from Alaska, the Chairman, for the graciousness with which he has yielded to me. I will not take long.

I want to acknowledge that I am a cosponsor of this legislation. And in the interest of full disclosure, I will say there are two small projects in New York State that would be affected. But the proposition to be addressed once again, as the senior Senator from West Virginia has said, is that the Line Item Veto Act is unconstitutional, and we are already beginning to see the constitutional consequences, the extraordinary increase in the power of the Presidency as against the legislature that is implicit in the newly enhanced bargaining position of the President.

If you want to change this power, which is very carefully set forth in article I of the Constitution, then amend the Constitution. But, Senators, listen to Senator BYRD. Listen, if I might just presume to say, to Justice John Paul Stevens. In the course of our challenge, which reached the Supreme Court last June, the Justices simply said, well, they don't have standing. However, in a powerful dissent, Justice Stevens, who was the only Justice to comment directly on the merits of the case, said they surely do have standing. He wrote of the Act:

> If the procedure were valid, it would deny every Senator and every Representative any opportunity to vote for or against the truncated measure that survives the exercise of the President's cancellation authority. Because the opportunity to cast such votes is a right guaranteed by the text of the Constitution, I think it clear that the persons who are deprived of that right by the Act have standing to challenge its constitutionality. Moreover, because the impairment of that constitutional right has an immediate impact on their official powers, in my judgment they need not wait until after the President has exercised his cancellation authority to bring suit. Finally, the same reason that the respondents have standing provides a sufficient basis for concluding that the statute is unconstitutional.

Again, Justice Stevens said, not only do they have standing but the measure is unconstitutional. Two Federal judges have spoken to this issue: Judge Thomas Penfield Jackson of the U.S. District Court for the District of Columbia—who took just 3 weeks from having heard the case to declare it unconstitutional—and then Justice Stevens.

I can report that three new constitutional challenges have recently been filed and now consolidated, I believe is the term, in the District Court, and we will hear from the Supreme Court before this term is out, I should think.

But in the first instance remember that the large issue here is that of the Constitution. We take an oath to uphold and defend the Constitution of the United States against all enemies, foreign and domestic. I had never thought, Mr. President, when I first took that oath that there were any ''domestic'' enemies to the Constitution, but now as I look about us, I recall that celebrated immortal line from Pogo: ''We have met the enemy and he is us.''

Now, there will be time to overcome that. For the moment I simply wish to thank the Senator from Alaska, the distinguished chairman, for an opportunity to express my view on this subject.

I yield the floor.

The PRESIDING OFFICER. Each manager has 4½ minutes remaining.

Mr. BYRD. Each side has 4½ minutes.

Mr. SARBANES. Could I get 3 minutes?

Mr. BYRD. Mr. President, I yield 5 minutes. That will leave how much time?

Mr. STEVENS. Two minutes to each side.

Mr. BYRD. Two minutes to each side.

The PRESIDING OFFICER. The Senator is correct. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I rise in very strong support of the pending measure overriding the line-item vetoes of the military construction appropriations bill.

During last year's debate on the line-item veto legislation, I spoke at length—and I do not intend to do that again today—on how giving that authority to the President would strike a major blow against the intricate, carefully conceived system of checks and balances that the Framers of the Constitution crafted over 200 years ago and that has stood the Nation in such good stead ever since.

With the line-item veto authority, the President needs only one-third plus one of either House of Congress, not even both Houses of Congress but either House, to negate legislation that the Congress has passed and the President has signed—I repeat, legislation that the Congress has passed and the President has signed. Then, after that process, the President can go back in and pull out those items he wants to cancel.

In my view, giving such authority to the President cannot be done by statute, and I believe that the measure we passed last year is constitutionally deficient. I trust when it is finally determined by the courts they will agree. In the meantime, of course, we have to deal with the legislation.

Furthermore, I simply want to point out that as a matter of policy, the line-item veto gives the Executive extraordinary power to determine the priorities of the Nation and to use that power, if he chooses to do so, to pressure Members of Congress on a whole range of other legislative issues. In other words, the Member is told, well, here is this item in this bill that is very important to your State, but on other matters on which I need your support—nominations, treaties, you name it.

A Member of Congress is then under tremendous pressure to support the President's priorities. That is clearly not the arrangement the Founding Fathers envisioned when they established a system based on a sharing of policy-making authority between the legislative and the executive branches of Government.

The Congress of the United States is distinguished amongst legislative branches in the world because it has some real measure of power and authority. This line-item veto approach is, in my judgment, well on its way to eroding that status.

Some asserted during last year's debate that the line-item veto was necessary as a deficit-reduction mechanism. The response from many of us was that to reduce the deficit the Congress need only make the right budget decisions, which in fact we have done as demonstrated by the dramatic decline in the budget deficit.

I am sure that many of my colleagues who voted for the line-item veto last year are having second thoughts after having seen it in action. In fact, the President's use of the line-item veto here does not even track the criteria which the executive branch itself said it was going to use in applying it.

I welcome this opportunity to join in the effort to undo the President's use of that authority. However, my colleagues should realize that as long as this legislation remains on the books, we will be back here time and time again waging an uphill battle against the Chief Executive seeking to impose his set of priorities on the Congress and the Nation.

Mr. President, I yield the floor. I yield back whatever time remains to the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes equally divided.

Mr. BYRD. I thank the Chair, and I thank all Senators who have spoken on this important matter. I thank those who take the position contrary to the position I have taken. I appreciate the opportunity to close the debate on this matter along with my dear friend, the Senator from Alaska [Mr. STEVENS].

Mr. President, Cato, the Elder, lived between the years 234 B.C. and 149 B.C. He was a great Roman statesman, and he once went to Carthage and viewed the operations of the Carthaginians and saw the progress they were making in building a prosperous regime and one that had considerable warmaking power. Cato brought back to the Roman Senate some figs that had grown in Carthage just to demonstrate the fact that Carthage was ''not very far away, gentlemen. This is a country you had better keep your eye on. You

had better watch these people. They are growing stronger every day and they don't live very far away, as evidenced by these fresh figs from Carthage.''

And, indeed, that great statesman, Cato, the Elder, henceforth closed every speech, every communication, every letter, with the words, ''Carthage must be destroyed!'' I shall close this speech now and perhaps some future ones with the words, ''The line-item veto must be repealed!''

I yield the floor.

Mr. STEVENS. Mr. President, it is always a pleasure to be in the Chamber with the Senator from West Virginia. But mine is a more mundane task right now, and that is to try to get the Senate to understand that this is the process provided by the Line-Item Veto Act. If it is not followed, the defense budget per se and the military construction budget in general will be lowered. If we pass this act and it becomes law, the President still has control over these projects. He has already reprogrammed money for military projects for Bosnia. Next spring we will face another problem of paying for Bosnia. But should we let $450 million go astray here now because of mistakes? I regret that the mistakes were made, but I hope the Senate doesn't make another one. This bill should be overwhelmingly passed to tell the Presidency the line-item veto is a very discrete mechanism and it must be used with care. Above all, its use cannot be based on mistakes.

I ask for the yeas and nays if they have not been ordered.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

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

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

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

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—69

Akaka	Collins	Gregg
Allard	Coverdell	Hagel
Baucus	Craig	Harkin
Bennett	D'Amato	Hatch
Biden	DeWine	Helms
Bingaman	Domenici	Hutchison
Bond	Dorgan	Inhofe
Boxer	Enzi	Inouye
Brownback	Faircloth	Jeffords
Burns	Feinstein	Kempthorne
Byrd	Ford	Kennedy
Campbell	Frist	Lautenberg
Chafee	Glenn	Leahy
Cleland	Gorton	Levin
Cochran	Graham	Lott
Lugar	Reed	Smith (NH)
Mack	Reid	Smith (OR)
McConnell	Roberts	Snowe
Mikulski	Rockefeller	Specter
Moseley-Braun	Roth	Stevens
Moynihan	Santorum	Thompson
Murkowski	Sarbanes	Torricelli
Murray	Shelby	Warner

NAYS—30

Abraham	Gramm	Landrieu
Ashcroft	Grams	Lieberman
Breaux	Grassley	McCain
Bryan	Hollings	Nickles
Bumpers	Hutchinson	Robb
Conrad	Johnson	Sessions
Daschle	Kerrey	Thomas
Dodd	Kerry	Thurmond
Durbin	Kohl	Wellstone
Feingold	Kyl	Wyden

NOT VOTING—1

Coats

The bill (S. 1292) was passed, as follows:

S. 1292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves of cancellations 97–4, 97–5, 97–6, 97–7, 97–8, 97–9, 97–10, 97–11, 97–12, 97–13, 97–14, 97–15, 97–16, 97–17, 97–18, 97–19, 97–20, 97–21, 97–22, 97–23, 97–24, 97–25, 97–26, 97–27, 97–28, 97–29, 97–30, 97–32, 97–33, 97–34, 97–35, 97–36, 97–37, 97–38, 97–39, and 97–40, as transmitted by the President in a special message on October 6, 1997, regarding Public Law 105–45.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, we will not have any further votes tonight. That was the last vote of the night. We do have additional business we are going to do tonight, and we will have somewhere between two and five votes tomorrow morning. I will work with Senator DASCHLE on the timing of those votes, and we will try to get them all in before the noon hour, which is what we have always said we will try to do on Fridays. We may have fewer than that number of votes, but I think a minimum of two. We could have more than that as we deal with procedural motions with regard to the Department of Defense authorization conference report.

I thank Senator DASCHLE for his efforts to work with us on a number of issues, a number of bills that we think we may be able to get some agreement on or get an understanding of how we will proceed. I particularly thank him for his efforts and for the efforts of Senator HARKIN with regard to the Federal Reserve nominees. Therefore, I have a unanimous consent request to make now.

EXECUTIVE SESSION

NOMINATIONS OF EDWARD M. GRAMLICH, OF VIRGINIA, AND ROGER WALTON FERGUSON, OF MASSACHUSETTS, TO BE MEMBERS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to executive session to consider Executive Calendar Nos. 305 and 306. I further ask unanimous consent that the time on the nominations be limited as follows:

Senator HARKIN in control of 90 minutes;

Senator D'AMATO in control of 30 minutes.

I further ask unanimous consent that immediately following the expiration or yielding back of time, the Senate proceed to vote on the confirmation of each of these nominations; that following the two votes, the President be immediately notified of the Senate's action; and that the Senate then return to legislative session. I understand there will not be a necessity for rollcall votes on these nominees.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, and I will do so only to publicly acknowledge the cooperation of a number of Senators, in particular Senator HARKIN. This has been a matter of great import to him. He has been able to work with us to reach this agreement. He is not on the floor at the moment, but he will be soon. I thank Senator HARKIN and a number of other Senators who have expressed concern.

I am very hopeful, as a result of this agreement, we can finish work on these two important nominations as well.

I thank the majority leader. And I have no objection.

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

Mr. LOTT. Mr. President, while we wait on the Senators to come to the floor, and so that we can discuss other matters, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The clerk will report the two nominations.

The bill clerk read the nominations of Edward M. Gramlich, of Virginia, to be a member of the Board of Governors of the Federal Reserve System, and Roger Walton Ferguson, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System.

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

The PRESIDING OFFICER. If there is no objection, the time will be deducted equally.

The absence of a quorum is noted.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, I would like to continue the discussion that I began a few days ago about the monetary policy of the Federal Reserve Board as it pertains to the two nominees that are about to be before the Senate for confirmation. Again, as I said before, I do not take this time in any way to try to keep these two nominees from being on the Board. I have met with both of them. They are fine individuals. I just happen to think, as I will state a little more in depth later, that their economic philosophy and their positions on what the Fed ought to be doing are just too much in line with the present thinking at the Fed. And I think that is going to cost us dearly in the years ahead.

Having said that, I don't intend in any way to try to block their final confirmation. But I wanted to take this time of the Senate to talk a little bit more about the monetary policy of the Fed and what it is doing to this country.

In testimony before the Joint Economic Committee yesterday morning, Mr. Greenspan said he would welcome a debate on whether or not the Federal Reserve should make inflation its sole goal, or whether there should be a balance between lowering unemployment and fighting inflation. Well, I welcome that opportunity. I hope my statements from Monday and today will help begin the debate on this important issue. It is an important issue and it affects every American. It especially affects working Americans and their families. Fed policy—basically the decisions they make—tells every American family how much they are going to have to spend on their car payment or home mortgage payment, or whether or not they are going to be able to put away some money for a college education for their kids. It affects every American family. Yet, we seem to just sort of let monetary go by the way, without ever calling into question the assumptions and reasons behind the decisions of the Fed.

There seems to be this sort of attitude that, well, if the Fed says it, it must be true. What can we do about it? Aren't they independent? Don't they operate independently? That is true. They do. But the Federal Reserve is not a creature of the Constitution. It does not have a constitutional framework in which to operate. The Federal Reserve was set up by Congress; it is a creature of Congress. We represent the people of this country. I don't think Congress ought to be in the position of making monetary policy on a day-to-day basis. Far be it from that. I do believe the Fed ought to have that independence, but I also believe that the Congress ought to exercise judicious oversight over the Federal Reserve and carve out, guide, and direct the Federal Reserve in the area in which we believe it ought to go in setting its monetary policy.

I think the question should be asked, ''How independent really is the Fed?'' Is it not really made up of the major banks of this country and the major lending institutions? How really independent are they? We do have a Board of Governors and, obviously, they are not all bankers. There are economists, people like Mr. Greenspan, and others not in banking. I believe one of the new nominees was an investment banker prior to his coming on the Federal Reserve Board of Governors. You wonder sometimes really how independent they really are. I think the Congress has every right and responsibility to the people of this country to help set the policy and guidance for the Federal Reserve.

Now, much of the Federal Reserve's policies are driven by what I have now come to believe to be a very arcane concept called NAIRU, the nonaccelerating inflationary rate of unemployment. I doubt that one in a million Americans even knows what that means. But it is a guiding principle of the Fed, and it has determined that interest rates will remain high for working Americans. Because of NAIRU and because of the grip that this arcane concept has on the Fed, we have unduly high interest rates today, higher than our historical averages, higher than what is warranted by the rate of inflation out there.

Well, NAIRU says is that if unemployment goes below a certain level, then inflation will take off—not just increase, but it will accelerate at such a rate that only unusually high interest rates could ever stop it. Well, as I said Monday, NAIRU has been proven to be inaccurate. It was once believed that inflation would accelerate if unemployment went below 6 percent. They said if it goes below 6 percent, look out, inflation is going to take off. Well, it went below 6 percent and inflation didn't take off. Well, the believers in this concept said, we were just wrong, it is really 5.5 percent unemployment. Well, then it went down below that. Then they said it is 5 percent. Surely, if we get to 5 percent unemployment, boy, inflation is going to take off. And because of that, we saw the Federal Reserve, under Mr. Greenspan, double the interest rates, the Federal funds rate, from 3 percent to 6 percent in 18 months. I believe it was in 1993 and 1994 when they increased those interest rates—or 1994 and 1995. In an 18-month period of time, it went from 3 percent to 6 percent because they said unemployment was getting so low that we are going to have to raise interest rates to keep inflation in check.

Then unemployment went below 5 percent, and still no signs of accelerating inflation. And the Fed admits there are no sings of accelerating inflation. And, despite no signs of this, the Fed is still willing to raise interest rates through the use of its so-called ''preemptive strike.'' I don't understand the justification for an interest rate hike based on an assumption that sometime in the future accelerating inflation may occur. We don't know when but sometime down that road it may happen. So, therefore, we have to jack up interest rates now.

In fact, Alan Greenspan admitted that ''economic understanding is imperfect and measurement is imprecise. . . .'' If the Fed's measurements are imperfect and they are not precise, how can we assume that the Fed knows what it is doing when it launches one of its preemptive strikes? We don't know, because, first of all, the Federal Reserve Board meetings are kept secret for 5 years. Why? There is no reason to keep their Board meetings secret for 5 years. I would think that at least after 1 year we ought to at least be able to look at their Board meetings and find out why they decided to do what they did.

So we have a Fed that uses an outdated concept to fight inflation when it might not even know how much inflation is actually in the economy.

Again, what we need to understand is that there is a difference between rapidly accelerating inflation and modest inflation. Mild inflation may redistribute income—causing some pain to those who are unemployed—but it doesn't destroy employment, and in fact may even be beneficial in terms of more employment and rising incomes.

To quote James K. Galbraith, a professor of economics at the University of Texas, ''It therefore makes little difference, from the standpoint of inflation dangers that matter most, whether one pursues low unemployment or not. The inflation costs of lower unemployment are small, tolerable, and easily reversible, if necessary—and that is using pessimistic assumptions. The dangers of an external supply shock, though much greater, are not closely related to the rate of unemployment, and cannot be reduced by a slow-growth policy. The lesson to be drawn is that there is no benefit in failing to pursue full employment.''

To further quote Galbraith, ''Therefore, at a minimum, policy should do nothing to slow economic growth. Let the economy grow. And if growth slows, policymakers should react quickly by lowering interest rates in an effort to keep progress going. There is certainly no benefit from slower growth and rising unemployment while the inflationary costs of a stimulative policy in response to evidence of a slowdown are speculative and small.''

However, there may be greater risks posed to the economy should the Fed continue its all-out effort to fulfill the bond market's goal of zero inflation.

And that really is what Mr. Greenspan is after. They want zero inflation. But I believe that may pose a very great risk to our country. Last summer, George Akerlof, William Dickens, and George Perry of the Brookings Institution published a study called ''The Macroeconomics of Low Inflation.'' Their study argues that controlled amounts of modest inflation are beneficial to the economy by preventing very high enduring levels of joblessness. In sum, this paper suggests the economic and social costs of getting to zero inflation, otherwise known as ''price stability,'' are far higher than most economists believe.

To quote the study, ''The main implication for policymakers is that targeting zero inflation . . . will lead to a large inefficiency in the allocation of resources, as reflected in sustainable rate of unemployment that is unnecessarily high.''

I raise this point because zero inflation—''price stability,'' as it is otherwise known—is the stated goal of Mr. Greenspan and the two nominees to the Federal Reserve Board, Mr. Gramlich and Mr. Ferguson.

Again, to quote Mr. Greenspan in his 1997 Humphrey-Hawkins testimony, ''The view that the Federal Reserve's best contribution to growth is to foster price stability has informed both our tactical decisions on the stance of monetary policy. * * *''

Mr. Gramlich stated, ''In the long run, the most fundamental of these objectives is stable prices.''

Mr. Ferguson said, ''Price stability should be a central goal of monetary policy.''

What concerns me is that in their blind pursuit inflation based upon this arcane notion of NAIRU, that we are coming very dangerously close to deinflation. It may even be there right now.

Over the past year the core inflation rate, measured by the Consumer Price Index, has increased by approximately 2.2 percent. But Mr. Greenspan and others say the CPI is overstated by as much as 1.5 percent. That means we might have basically zero inflation in our country.

So what happens when you reach zero inflation? Beyond the question of the Federal Reserve's policies on incomes of average people, which I mentioned on Monday and which I will talk about shortly, my concern is about the real possibility that the Fed may send our economy and the world's economy into a serious period of deinflation.

In the United States, expectation of accelerating inflation is shrinking significantly. We brought down our budget deficit to where it is practically nothing. So we have our fiscal house in order. Inflation is very low. Unemployment is going down. But the Federal Reserve and the nominees before us see zero inflation at the end process. But, in fact, zero inflation is a point on a continuum. You can have inflation. You have zero inflation. Then you have deflation.

I believe right now we are on the precipice of risking a destabilizing situation which may push us into a deflationary period.

So I think deinflation to me right now is more scary than modest inflation. I believe that a serious escalation on that side—deinflation—is more likely over the next 5 years than significantly higher inflation. Yet, the Fed is paying no mind at all to that.

The old ''pay any price, bear any burden'' to battle inflation has prevented the American economy from reaching its full potential. And what it has done is it has said to the middle class that you get less and less of growth of our economic pie.

Before I yield to the Senator from North Dakota, I want to point out what is happening here with the distribution of the economic pie, as we see it. This chart says it all. If you are in the top 20 percent of the income earners of America, you are getting a larger and larger portion of the income in America. But if you are in the bottom 20 percent—actually, if you are in the bottom 80 percent—you are getting less and less. It is the top 20 percent that is getting more and more of the growth in the economic pie of our country. Again, that is because we have kept the inflation rates artificially high.

That seems to make sense when you think about it. Who likes high interest rates? If you have money you like high interest rates. If you do not have money, you are a low-income American, and you are a working family wanting to buy a new car, or new home, or put away some money for your kids' college education borrowing money for college education, you are hurt by high interest rates.

Again, this chart also spells it out. ''Labor and Capital Shares of National Income, 1993–1996.'' If you look at the percentage share of national income, what we make as a Nation, labor's share since 1993 has gone down, and is continuing down. But if you look at capital's share, from 1993 to 1996, it keeps going up. That is because of the policies of the Federal Reserve System. More money is going into capital; less and less going to labor.

Again, this chart also shows it. This shows the corporate profit rates and median weekly earnings, 1989–1996. If you look at the corporate profit rate since 1993 it has skyrocketed.

Keep in mind that Alan Greenspan and the Federal Reserve jacked up interest rates—doubled the Federal funds rates—in 1994 and 1995. Look at that tremendous increase in corporate profits. Yet, look at median weekly earnings during the same period of time. Down they have come, especially after 1993.

So, again, more and more of our national income is going to corporate profits, and less and less is going to median weekly earnings of the families of this country.

We have all seen what has been happening on the stock market the last few days. One person from the administration called me the other day and alluded to the fact that my holding up these two nominees sent the wrong signals to the financial markets. I said, ''What about the signals we are sending to working families?'' What about those people out there working hard with maybe two jobs or maybe three jobs with the husband and wife trying to make ends meet, trying to borrow money for a home or a car? What about signals to them? We are not sending any signals. All we are sending to them is higher and higher interest rates all the time.

The high rates of interest, I believe, are slowing the growth of our economy. And, more than that, it is redistributing the growth that we have in such a way that those at the top—the top 20 percent—are getting more and more of national income. The bottom 80 percent are getting less and less.

Again, just before the Federal Reserve began its series of rate hikes in 1994, the Federal funds rate was nearly zero. This chart shows what happened on real interest rates.

They are higher than people think; higher than historical rates. Here they were in 1994. The real Federal funds rate was about one-half percent. Today it is about 3.3 percent. They have come up, and they have stayed up during this entire period of time. So we have higher real rates than we have had before during a period of time when there was absolutely no signs of accelerating inflation in our economy; none whatsoever. Why are these interest rates still high?

It is because the Fed has a misguided policy called NAIRU.

I would like to discuss this chart entitled ''Alan Greenspan and Long-Term Interest Rates.'' It is interesting that every time interest rates, long-term interest rates, start to come down, Mr. Greenspan gives a speech, and interest rates go back up. Back here—this was last year—Mr. Greenspan gave a speech. He called said the stock market was characterized by ''irrational exuberance.'' What happened? Well, interest rates started going up.

Then interest rates started to come down again. Then Mr. Greenspan gave his Humphrey-Hawkins testimony and hints that the Fed may change its interest rate policy. Interest rates go up again.

Then the market forces start to bring interest rates back down again. And then again just this month Mr. Greenspan testifies before the House Budget Committee, again drops subtle hints that in fact the economy is overheated, things are going too fast or maybe there is the specter of inflation. Interest rates start up again. And yet there is absolutely no sign of any inflation. In fact, I think a case can be made that we are right now near zero inflation in our country.

This is the time when labor's share ought to be a little bit better. This line ought to start going up. This line

ought to start going up so our working families get a better share of the income of our country, and yet the policies of the Federal Reserve System will not let that happen.

Mr. DORGAN. Mr. President, will the Senator from Iowa yield for a question?

Mr. HARKIN. I yield to my friend from North Dakota, who has been a leader on the subject of fighting for working families and getting the Fed to follow some good, old common sense. I am delighted to yield to my friend from North Dakota.

Mr. DORGAN. If the Senator will allow a discussion here briefly, I appreciate the Senator taking the floor to talk about the Federal Reserve Board and these nominees. I come not so much to talk about these two nominees but to discuss just a bit about where we are and where we are headed with the Federal Reserve Board policies.

If you go back a century or a century and a half ago in this country, you could go from barber shops to barrooms and hear debates about interest rates. All over this country we debated interest rates. In fact, just go 30 or 40 years back, and you will find that Lyndon Johnson called the head of the Federal Reserve Board down to a barbecue at his ranch in Texas and squeezed him, almost broke his bones, I am told, in his shoulder area because the guy was trying to increase interest rates by one-quarter of 1 percent. That was in the 1960s.

Now the Federal Reserve Board has a big concrete edifice downtown with these money-center bankers who sit inside of it and they decide where the interest rates are going to go, and it doesn't matter what the country thinks.

Whose interests do they serve? Well, when they shut the doors down at the Federal Reserve Board and make decisions about interest rates, they call in on a rotating basis the presidents of the regional Fed banks, and they vote on what interest rates ought to be.

Now, who are the regional Fed bank presidents? And who are they responsible to? Were they ever confirmed by the Senate? No. They were hired by a board of directors in their region. Who are the board of directors? Money center bankers. Whose interest do they represent in setting interest rate policy at the Fed? Bankers. It is bankers getting together, meeting with other bankers, to establish the interest rates.

Is that in the interest of the American people? I think not.

I have from time to time come to the floor of the Senate and suggested that my Uncle Joe should be appointed to the Federal Reserve Board. My Uncle Joe is a good guy. He is kind of semiretired now but a good guy, smart guy. He used to fix generators. He knew how to fix things.

There is nobody at the Federal Reserve Board who knows how to fix anything. They all come from the same area. They all look the same. They all wear the same suits. They all have the same educational background. If you put them in a barrel and shake it up, the same person winds up on top—gray suit, Ivy League background. Normally he would have worked for the Federal Reserve Board in the past. They are an economist, which is psychology pumped up with helium, as I said in the past. And they are like the old Roman augurs who used to read the entrails of cattle or the flights of birds in order to portend the economic future. They sit down there now behind this concrete edifice telling us about interest rates and then vote, and they make them stick.

Here, when we talk about taking money out of people's pockets in the form of taxes, we have these extended debates, but when they take money out of people's pockets in the form of higher than are justified interest rates, it is done behind closed doors in secret at the Federal Reserve Board and there is no debate at all and no accountability for it.

The reason I want to pipe up a bit here on this is the Senator from Iowa makes the point interest rates are higher than they should be, and he is absolutely right. There is no historic justification given where inflation is today for interest rates that exist at the Federal Reserve Board. There is no justification for it at all. It means, in terms of where they set short-term interest rates, that the prime rate is too high and every other interest rate paid by every other American business and consumer is too high. It is a tax that is unjustified and enforced against every family.

Now, no one has ever taken me up on the suggestion my Uncle Joe go to the Fed. The reason I suggested Uncle Joe is that my uncle would sit in there, I assume, and say, ''Well what's this mean to the person out there on Main Street? What's this mean to the person who has a little business or who's borrowed some money to start a business? What's it mean to that person?''

That is not discussed. It is just a closed group of people who kind of come from the same background, and they just keep talking and they decide what they are going to do in a closed session.

I know the Senator from Iowa remembers I have brought to the floor of the Senate, just as a public service, a chart from time to time with all the pictures of the Fed Board of Governors, where they came from, what their education background is, how much money they make, along with the regional Fed bank presidents so the American people can see who's voting on interest rates. They need to see that.

Now, I might make one other point. I appreciate so much the indulgence of the Senator from Iowa.

Mr. HARKIN. This is a good discussion.

Mr. DORGAN. This is the last living dinosaur. It truly is. There has been a revolution of sorts in virtually every public institution. We have reformed welfare. We have tackled the budget deficit. We have done a lot of things in town in public policy. But guess what has not changed at all. The Federal Reserve Board. Nothing. No change.

We had the GAO do an investigative analysis of the Federal Reserve Board. What we discovered—and I can put some of this in the RECORD at some point—was that while they were telling everybody that we need more austerity, telling Congress you need to tighten your belts, they were down there overeating, spending more and more each year.

The report, a one-of-a-kind study that took 2 years to assemble, called into question a whole series of practices with respect to the Fed's building accounts, contracts they are involved with. But the interesting part of the report was—it was a large report. The little nub of it, which is the hood ornament on the excesses at the Federal Reserve Board, is that the Federal Reserve Board has squirreled away $4.3 billion, and I will bet most Members of the Senate don't know it's there. When we actually had the report done, it was about $3.7 billion, roughly. But now it has grown to $4.3 billion as of the 15th of this month—$4.3 billion.

Mr. HARKIN. Might I ask the Senator, if he will yield, what is that money used for?

Mr. DORGAN. That is a contingency fund set aside to absorb possible losses or what a family might call a rainy day fund. Now, the Federal Reserve Board has been in existence I guess about 80 years. Roughly 80 years.

Mr. HARKIN. More than that. 1912, I believe—1916.

Mr. DORGAN. For 80 consecutive years the Fed hasn't had a loss and it will and never will have a loss. You can't have a loss if you are the Federal Reserve Board. Your job is to create and make money, and you do it routinely on a guaranteed basis. So the question is this. Why would an institution that will never have a loss in the future, squirrel away $4.3 billion of the taxpayers' money in a rainy day fund?

The GAO, the General Accounting Office, the investigative arm of Congress, asked that question. In fact, they are the ones who discovered it. I did not know it existed.

Mr. HARKIN. I had no idea.

Mr. DORGAN. They asked that question, and the Federal Reserve Board actually gave them three or four different excuses for it. Essentially, when you boil it down, they said we need this for a contingency, for a rainy day fund.

The GAO said simply that money ought to be given back to the American taxpayer; $4.3 billion. I wonder how many Members of the Senate know that sits down there in an account for an agency that will never have a loss. They have squirreled away $4.3 billion.

The GAO says this ought to go back to the taxpayer. What is the Fed's response? No response. It doesn't have to respond to anybody. It is not accountable. It doesn't respond to you, to me,

to the Congress, to the GAO. It is its own institution.

It was not supposed to be that way. It was not supposed to be a strong central bank, unaccountable to anyone. It has become the last living American dinosaur: up on a hill, the big fence, locks on the doors. They make decisions behind closed doors. They call in their local bankers and make their decision on interest rates. They serve their constituents, not ours, and that is the public policy.

Mr. HARKIN. I do not know a lot about the Fed's internal operations. The Senator has looked at it a lot closer than I have, and he has given us some information I did not know. But when the Fed Board meets to make its decisions, do they in fact meet behind closed doors?

Mr. DORGAN. Oh, sure.

Mr. HARKIN. Could I go down and sit in on it? I don't know. Can anyone sit in on those meetings?

Mr. DORGAN. Let me suggest the Senator try that. In fact, I might be willing to go with him, and we will find, I assume, a reasonably comfortable chair—since I am told they buy great furniture down there. They will provide us a chair outside the room. Do you think the Chairman of the Federal Reserve Board and his colleagues on the Open Market Committee, the Board of Governors plus five rotating regional Fed bank chairmen who convene to make interest rate policy—do you think they are going to invite you in and say, ''Do you want a glass of water or cup of coffee? And, by the way, while you are here, we would like you to sit in this chair because we would really like your advice.''

Do you think that is going to happen? The answer is of course it is not going to happen because this is the last American dinosaur. It operates in secret, makes decisions without public debate because there isn't debate inside the Fed except inside a closed room among bankers.

I know there are some of us who very strongly believe we should have some Fed reforms. I won't go on much longer because I know the Senator has other things to do.

Mr. HARKIN. Would the Senator yield? I just asked my staff—I was unaware of this—I am advised there are no small businessmen or businesswomen on the Federal Reserve Board. I understand they are all bankers or economists. I will further look into this, but that is what I was told. I do not think a such an important decision-making body should be comprised of persons representing two select groups of our society. This is also a nation of small businesses and farms. Small businesses are the ones that employ people. They are the backbone of our economy. If that is true, that there is not even one small businessman or woman on the Federal Reserve Board, it is shocking.

Mr. DORGAN. That's why I want my Uncle Joe there. You are right. I pointed out the Federal Reserve Board—I know they won't like to hear me say this—but the Federal Reserve Board has largely been comprised of people you can just cut out with a cookie cutter.

Incidentally, you and I come from the same part of the country. We have had the sum total of three, three people from our part of the country as a member of the Federal Reserve Board of Governors since the beginning of the Federal Reserve Board, over 80 years ago—three.

Mr. HARKIN. They probably don't want to make that mistake again, do they? If people from the Midwest are appointed to the Board, they might question some of the Fed's policies.

Mr. DORGAN. There are some people out in the middle of the country, between the two coasts, who think we are more than just time and space, that we are part of the country and we are producers and we have a significant interest in what the interest rates are, how much economic growth this country enjoys and so on. That is why I really feel, when we talk about who should join the Federal Reserve Board, who we should confirm, I hope in the future we can finally get to some people who are outside the mold, who can say in those meetings, as they sit in those meetings, ''Gee, what impact does this have? What are we justified in doing here in monetary policy, not just for the interest of banks but for the interest of businesses on Main Street, for the interest of manufacturing plants, and for the interests of mom and pop who are at home, borrowing money trying to send kids to school, maybe trying to start a business?'' Those are the questions that I think are not asked because you have a single objective at the Fed at this point and that is they have decided to pursue, as you correctly pointed out, a zero inflation rate.

Mr. HARKIN. Yes.

Mr. DORGAN. We have had twin economic goals in America, generally speaking: Stable prices and full employment. But we don't have twin goals at the Federal Reserve Board.

Mr. HARKIN. It is funny how oftentimes I will talk with people from my State of Iowa about the place of the Federal Reserve Board on monetary policy there seems to be a perception among a lot of people in this country that we have the Federal Reserve Board to not only prevent inflation, but to keep us from going into a depression. I find a lot of times when I tell people that, look, the Federal Reserve Board was in existence for over 20 years prior to the Great Depression of the 1930's, the Federal Reserve Board was in existence, yet they didn't prevent the Great Depression and they did nothing to help us get out of it—that is kind of startling to people, to hear that actually happened. The Federal Reserve Board was in existence when we have had a lot of slowdowns and recessions in our country, yet nothing happened. People are amazed at that.

I think one of the reasons for the Fed's existence is to make sure we don't have those kinds of recessions and deflations in our country about which I have just spoken and which I think we are very dangerously close to right now. So I think a lot of people in this country have a mistaken idea. I think it is because we don't have a good debate on monetary policy.

I just say to the Senator from North Dakota, talking about his cookie-cutter images of people on the Fed, I met with both of the nominees, Mr. Gramlich and Mr. Ferguson. They are nice, nice individuals. They are very pleasant, obviously very smart, very learned individuals. They are successful in their respective careers. But from what they told me and from their statements before the committee, they are just going to sing out of the same hymn book; the same song, second verse, same thing that they hear down at the Fed.

I said I would like to hear some people down at the Fed who would say, ''Wait a minute, let's have a different view on this.'' One of the things I like about the Senate, or the House of Representatives where we, the Senator and I, both served before, is not everyone here believes the same thing. You get good discussions and good debate on almost every issue. Out of that I think you get policies that are better for our country. But if everyone thinks the same, you are not going to get good policies that really benefit our country. That is what I am afraid of. At the Fed you just have one line of thinking and whoever gets nominated by the President and gets put on that Board, they think the same.

Mr. DORGAN. There is an old saying, when everyone in the room is thinking the same thing, no one is thinking very much.

Mr. HARKIN. Yes.

Mr. DORGAN. We had a recent example at the Federal Reserve Board. We sent someone down there who I think had pretty good promise, kind of a different-thinking person. He didn't last too long. At least some of the discussion in the papers about why this fellow left the Federal Reserve Board—I am told it is because he was not accommodated very well. You know, he didn't think the same, so he was sent over to a corner there and wasn't involved in policy very much. The result was that it was not a place he wanted to stay, because it wasn't a place for dissenters or people with opposing views.

I will finish by simply saying—

Mr. HARKIN. I yield further to the Senator.

Mr. DORGAN. By simply saying the Senator from Iowa does an important service, it seems to me, in a Senate that is empty, pretty much, on an issue of monetary policy and Federal Reserve Board issues, when very few people are willing to discuss or debate or advance these issues. The Senator from Iowa is willing to do that. For that, I am enormously appreciative.

I know neither of us is going to be given an award, Man of the Year Award, by the Federal Reserve Board or any of the regional banks, and I accept that. But I do think it would serve this country's better interest to have a significant debate about what kind of monetary policy is good for all of our country, good for working families, good for businesses, good for Main Street and Wall Street—good for banks, yes, because we want banks to do well as well as the rest of the American economy. But we have such a lack of thoughtful debate about monetary policy. The two policies of monetary and fiscal policy are the policies that determine whether we have an economy that is doing well.

The Senator made a very important point. We had recessions and depressions before we had the Federal Reserve Board and we have had recessions and depressions since. Has the Federal Reserve Board done some good things? Yes, I think so. I think in times of difficulty they have made some tough decisions. I think in times of fiscal policy excess they have put the brakes on, in monetary policy. I think there are a number of things that I can point to about the Fed and say, ''Good job, we are glad you were there.'' But there are other circumstances in which I think it is important to say to the Fed, ''You have a responsibility in public policy to do more than just represent bankers' interests, more than just represent your single-minded goal that ignores the needs of a whole lot of the American people.'' I don't stand here saying that I think we ought to do things that advance more inflation in our economy.

Less inflation is better for our economy, and the global economy is what has largely produced a lower rate of inflation. But it is also very important, having the aggressive debates we have in fiscal policy, in monetary policy for us to foster the opportunity for those same debates about what kind of policies benefit whom and how and why. That is what the Senator from Iowa does. I think it is a significant service for him to be here and do that. I am pleased to come out from time to time and be involved in the discussion with him.

Mr. HARKIN. I appreciate what the Senator said, and I appreciate his longtime involvement in this issue. I hope that we will take time in the Senate and the House to really have some more discussions on monetary policy and on the Federal Reserve System.

I hope that sometime soon we might even entertain some legislation to change the operation and the functioning of the Federal Reserve System. As the Senator from North Dakota said, it is a dinosaur; it hasn't changed. We try to change the way we operate around here. The Federal Government is undergoing reorganization. But the Federal Reserve just keeps on the same way it has been doing things year after year, and it never changes.

I think perhaps we would be well advised to think of legislation to perhaps change some of the operations of the Fed and have a good healthy debate on how the Fed is structured, what its responsibilities are, how nominees are selected, how they are approved and whether or not we might want some different voices and different kinds of people periodically on the Fed to take a look at what they are doing.

Should their meetings be secret? Should they be secret for 5 years? I don't know. I tend to think they shouldn't be secret for 5 years. I have said that one year might be an appropriate period of time. Some said why even a year? I had to think, why even a year?

I believe we must have some sort of time limit because you don't want markets to fluctuate drastically due to speculation on the Fed's decisions. But, Mr. President, isn't it true that markets always operate the best when there is transparency? I have served on the Agriculture Committee for many years. I have looked at the commodities markets, and we have always said that when you have transparency, that is when markets function most efficiently. It is when things are hidden and no one knows what is going on and you have a few people making one decision behind closed doors that affects thousands of others, that is what skews the market.

The market works best when there is transparency, and if you have a Federal Reserve System operating behind closed doors, with secret meetings and their minutes are kept secret for 5 years, I believe that more than anything skews the financial markets. Secrecy does not provide for a more orderly functioning market system.

Mr. President, in all of this debate, we can talk about monetary policy and what it all means. It gets kind of arcane and people's eyes get a little bit heavy. Sometimes we have to bring it home, who and what are we talking about. We are talking about Ken Bishop, a senior records clerk for AT&T in Morristown, NJ. This is an older story but still very appropriate. Mr. Bishop has endured two rounds of layoffs, commutes 110 miles a day, works two jobs, yet his family income remains stuck at $40,000 a year, right where it was 10 years ago. But 10 years ago, he owned his own home; now he rents. His wife works two jobs at times, and he still owes money.

So when AT&T said it would lay off another 40,000 workers, the 48-year-old Bishop said, ''You stop and look at this and say, ''When is it all going to end?''

Or it is about Cynthia Pollard. Two years ago, she was making $40,000 a year selling computers. She wore suits and heels to work, lived in a tony Atlanta neighborhood and ate out often. Then the company closed its Government division and Pollard was laid off.

Between jobs without health insurance, she totaled her car and suffered a pinched nerve. Now she is a waitress earning half her former salary, taking the bus to work, too exhausted from 14-hour days to even think about going out.

These are the people we are talking about. We are talking about labor's share, working people's share of the national income.

Since 1993, it has been on a downward track. Capital share of growth in this country keeps going up and up. What that means is a further widening of income and wealth in our Nation. The middle class is being shoved further and further down, and this chart shows it. This chart represents a change in the share of income received by each quintile, each 20 percent of our income earners in America. The top 20 percent of income earners are getting an increasing share—this is a percentage—an increasing share of our national economy at the expense of the other 80 percent.

The lowest 20 percent, that is low income. Obviously, they are getting squeezed the hardest. Up here you have middle-income people and their share of our national income is going down as well.

I believe that spells a great danger for our country, more dangerous than this specter or this fear or this ghost of inflation that the Federal Reserve System keeps saying they want to fight at any price. Well, this is the price we are paying right here, a tearing apart, I believe, of our American middle class.

Why? Why is it that unemployment can come down and inflation won't go up? Why is it that NAIRU is outdated and arcane? It is because we live in a new world where prices can decline because of fierce international competition?

For example, over the past few months, we have heard announcements from most of the major automakers. They are either going to hold their 1998 model prices at the 1997 level or even lower because they are facing competition both domestically and internationally. Companies are more aggressive as they cut costs. There is a spreading anti-inflationary mentality among individual and corporate consumers.

For example, Larson Manufacturing, a storm door manufacturer with operations in my home State of Iowa, raised workers' wages by 4 percent over the past year despite pressures to keep his prices flat. Mr. Jack Welch, the CEO of General Electric, said: ''There is absolutely no inflation. There's no pricing power at all.''

All of this means we can have fuller employment, higher incomes, a better share of our national income for labor, for working people without having any inflation.

Again, I will quote an article by Greg Jaffe in the July 31 Wall Street Journal:

Many economists are increasingly concluding that with fundamental changes in the world of work—for now at least—the unemployment rate does not mean exactly what they thought it meant: There are far more

people than ever before who don't think of themselves as unemployed but will take jobs they find appealing. Far more people are available for employers than the unemployment rate suggests.''

How many times do we pick up the paper and see that some company has opened a new division and they put out the hiring notice, and if the wages that they are paying are even modestly over minimum wage, they can advertise for 200 positions and 1,000, 2,000, 3,000 people will show up for jobs that pay just a little bit more than minimum wage? This shows Americans are desperate for higher paying jobs. But to get higher paying jobs, we need a healthy, vigorous, growing economy.

We also have to recognize that more people are entering the work force, that combined with increasing productivity will allow our economy to grow at a faster rate. We have a welfare-to-work program. We have a lot of people on welfare that are now going to be coming into the work force. And, quite frankly, we have a lot of women who have not entered the work force before who may float in and out of the work force.

I will repeat again from the article by Mr. Peter Huber in the Forbes magazine of September 8, 1997. He said:

Officially speaking, America hasn't yet discovered microwave ovens or women's lib. Bone-weary though she may be, the stay-at-home mother doesn't labor at all in the eyes of employment statisticians. But she could, easily enough. With one new mom working at a day care center, three other moms can enter the official work force when they choose. So long as many women remain ambivalent about where to work, in the home or out, the supply of labor will remain far more elastic than the statistics suggest. Memo to Alan Greenspan: Wire roses to Gloria Steinem.

The article goes on to say that:

If the officially audited supply of labor keeps falling and the price doesn't rise—

Which is what has been happening—

then we must either give up on economics completely or conclude that there's more to the supply side of labor markets than meets the official eye. Perhaps it's simply that American women, Mexican men and Intel's progeny have all become good substitutes for what the official statisticians call U.S. labor.

Anyway, Mr. President, I ask unanimous consent that Mr. Huber's article be printed in the RECORD.

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

[From the Forbes, Sept. 8, 1997]

WAGE INFLATION? WHERE? (LABOR STATISTICS LOSE PREDICTIVE VALUE)

(By Peter Huber)

HERE'S WHY STOCK PRICES are really supposed to fall. Employment rates rise above some critical flash point. So wages rise sharply. So prices of goods rise—just as rising wages are boosting demand. Inflation soars. So interest rates go up. Stock prices crash.

This is a perfectly sound theory, but it requires some facts. Where's the critical flash point? Do the employment statistics mean what they used to mean? Do they mean anything at all?

Officially speaking, America hasn't yet discovered microwave ovens or women's lib. Bone-weary though she may be, the stay-at-home mother doesn't labor at all in the eyes of employment statisticians. But she could, easily enough. With one new mom working at a day care center, three other moms can enter the official work force when they choose. So long as many women remain ambivalent about where to work, in the home or out, the supply of labor will remain far more elastic than the statistics suggest. Memo to Alan Greenspan: Wire roses to Gloria Steinem.

Labor markets have stretched into the home; they have also spilled out of the country. A U.S. multinational doesn't raise wages in Maine if it can shift production to a more elastic labor market in Mexico. Even the all-American producer in Kansas can't raise wages or prices much if it competes against imports from a wage-stable Korea. Labor statistics, in short, don't mean much unless they track where goods are produced and consumed. The more transnational economies become, the worse the tracking gets.

Then there's silicon. It takes a mix of capital and labor to manufacture a mousetrap, and economists have always allowed that the mix can change. In the past, however, the substitution effects were slow. You could hire and fire workers a lot faster than you could acquire or retire machines and buildings. So ready supplies of capital didn't discipline the price of labor in the short run.

Is that still true? Computers are getting easier to deploy, smarter and—because of rapid innovation and falling costs—shorter-lived. Many a manager can now expand production as easily by investing an extra dollar in chips or software as he can by hiring new workers. Technology can have a powerful wage moderating effect long before silicon becomes a complete substitute for sapiens. All it takes is enough substitution at the margin.

The substitution is happening. Productivity, it now appears, has been rising a good bit faster in recent years than government statisticians recognized. Three new working moms with computers produce as much as four old working dads without. Add newly minted Pentiums to the ranks of those in search of useful work, and unemployment statistics look very different.

None of this will tell you whether to go long or short on General Motors next week. It's just that the next release of official labor statistics probably won't, either. Like a drunk searching for his keys under the lamppost rather than in the shadows where he lost them, the government statistician counts where the counting is easy. But the three great economic stories of our times—women in the work force, global trade and information technology—offer no easy counting at all. The counters are good with things that sit still. Women, foreigners and chips keep moving.

This much we do know for sure. If the officially audited supply of labor keeps falling and the price doesn't rise, then we must either give up on economics completely or conclude that there's more to the supply side of labor markets than meets the official eye. Perhaps it's simply that American women, Mexican men and Intel's progeny have all become good substitutes for what the official statisticians call United States labor. Maybe welfare reform is effectively expanding labor pools, too. In any event, running out of old bread creates neither famine nor inflation when there's a glut of new cake.

According to official statistics and economic models, a supply-side crisis in labor markets should have reignited inflation some time ago. Investors may indeed be crazy to ignore this indubitable, though theoretical, truth. But if so, wage earners are crazier still—so crazy they don't raise the price of their labor when they can. Then again, maybe they can't.

Mr. HARKIN. As I pointed out earlier, average economic growth over the past 25 years has been a full percentage point lower than what its average in the previous 100 years. Slow economic growth is a zero sum game. There are going to be winners and there are going to be losers. Unfortunately, more Americans are finding themselves to be on the losing end.

Over the past 2 and a half decades the losers have been hard-working American families. And the winners—the winners have been the top 20 percent income earners in America.

The September 1, 1997, Business Week had an excellent article. It described the plight of workers that I previously read about. There is the story of Ted Oliver, a 27-year veteran of Con-Agra. I know that company well out in the Midwest. He works at the shipping dock of Con-Agra's Batesville, AR plant.

Last March, the employees of the plant got a 17 percent raise over the next five years. While that may sound like a lot, it is not.

I am quoting the article from Business Week.

Even though the 5 percent hike that took effect this year pushed Mr. Oliver's hourly salary up to $8.96 an hour—

And mind you, he is a 27-year veteran of this company. He is now up to making $8.96 an hour—he and his coworkers earn less in real terms than they did in 1988. In fact, he will still be behind his 1988 earnings levels when the entire raise kicks in. Despite his working 9 to 10 hour days, 6 days a week, and his wife working two jobs, Mr. Oliver said, ''We've been strapped, and we're not even back to where we were.''

Think about that. Think what that does to you as a family. You worked all these years, you think you get a decent raise, and yet you are not even where you were in 1988 in terms of your real income.

It is little wonder why the amount of personal debt keeps going up all the time.

Of course we have a movement afoot to change the bankruptcy laws so people can't declare bankruptcy like they used to. I would suggest, Mr. President, before we go down that road we begin to find out why more and more Americans are going into debt and why they are piling up the debts and why they are declaring bankruptcy to get out from underneath it—rather than us just rushing to pass legislation to make it harder for people to pay off their debts.

I just also point out that Mr. Oliver's grand wages of $8.96 an hour, assuming a base 2,000-hour a year job, is less than $20,000 a year for him and his family.

So the median family household income has not yet returned to its pre-1989 level. That was the last year in which we had a recession. In theory, periods of economic growth are supposed to allow wages and incomes to

surpass the levels enjoyed in prior years of economic growth. In a capitalist society, we have periods of growth, and then we have a slowdown, and we have a growth again. In theory, each period of economic growth should lead to an increase in incomes for all Americans. But in this economic expansion incomes for most Americans have not even caught up to the level we had for 1989.

Well, the bill for Alan Greenspan's slow-growth economic policies and high interest rates is coming due. As a recent editorial in the Washington Post said:

> The United States is six years into an economic expansion, with low inflation, low unemployment and a famously soaring stock market. Yet the benefits of economic growth are not filtering down as much as might be expected. Median household income remains lower than in 1989, before the last recession.
>
> The number of poor people in the United States did not diminish in 1996 from the previous year, the poverty rate is still higher than in 1989 and the number of those considered very poor—[that is] earning less than one half of the poverty threshold—actually increased in the last year. Wages for men working full-time declined in 1996 by 0.9 percent from the previous year.

Imagine that. Huge stock market boom. This top 20 percent getting more and more money; members of Congress increasing their salaries. And yet wages for people working full-time declined last year by nine-tenths of a percent from the previous year.

The editorial goes on to say:

> Beneath these disappointing statistics is a trend of increasing inequality . . . it seems to us that most Americans aren't likely to be comfortable with an economy that leaves one sector further and further behind. It's not a recipe for future steady growth, nor for a healthy society.

We have heard a lot of talk about how the recent records in the stock market are benefiting millions of Americans. But that is not true. Over 80 percent of the American people do not even own stock.

As a U.S. News & World Report article pointed out:

> Middle Income Americans have most of their assets in their home and [in] their savings, while the rich keep a higher percentage of their wealth in financial instruments such as stocks and bonds. Housing prices haven't kept pace with the torrid stock market, and the middle class has virtually stopped accumulating savings. While the wealthy have been running up huge gains in the stock market, middle-income Americans have been running up credit card debt to compensate for stagnating wages.

That is what is happening. The solution to reversing these dangerous trends is strong, sustained economic growth. The Federal Reserve has been on a course to try to limit economic growth to around 2.2 percent. Again, we have exceeded that. No thanks to the Fed, but we have exceeded that. Yet the Fed is determined at all costs to keep that growth from increasing, and also at all costs to keep interest rates high.

The Federal Reserve doesn't seem willing to let American workers enjoy even modest gains in wages.

Lower unemployment and rising wages all tie back into this NAIRU concept that I raised earlier in my statement. Again, NAIRU says that when unemployment drops below a certain level, employers will be forced to raise wages. Because of this, we will have inflation accelerate at an uncontrollable pace. That is a view supported at the Fed, and I am sorry to say, including the two nominees before us, Mr. Gramlich and Mr. Ferguson.

Again, Mr. President, even Mr. Greenspan said in his March 5 Humphrey-Hawkins testimony that job insecurity is something to be welcomed, ''If heightened job insecurity is the most significant explanation of the break with the past in recent years, then it is important to recognize that * * * suppressed wage cost growth as a consequence of job insecurity can only be carried so far. At some point the tradeoff of subdued wage growth for job security has to come to an end.''

Well, I support the opinion of James Galbraith of the University of Texas, who said, ''Mr. Greenspan is concerned about the possibility that the American worker might start to demand and receive a slightly bigger share of the economic growth that has occurred over the last several years. Repressing wages is the essential thing, and the way to do that is to slow economic growth, raise unemployment, and make sure that job insecurity that Mr. Greenspan explicitly credits for suppressing wage growth does not diminish nor disappear.''

Again, this is what we are confronting. That is why I tried to take this time to talk about monetary policy. We don't talk about it much in the Senate and don't pay much attention to it, but the monetary policy of the Federal Reserve Board is having a devastating impact on American society. What it means is that real interest rates continue at an unnecessarily high level. It means that more and more moderate-income Americans are paying unduly high interest rates for their homes and cars and their kids' college education. The high interest rates mean that more and more income will go into corporate profits and less and less will go into weekly earnings of hard-working Americans. High interest rates mean working Americans will rack up more and more debt, and it means a hidden tax on the American family.

A 1 percent increase in rates raises the average home mortgage by almost $1,000 a year. A mortgage on a $115,000 house goes up $80 per month. A 1 percent increase in rates raises the payments for an average farmer by $1,400 per year. A 1 percent increase in rates raised the payments for the average small business by $1,000 per year. These interest payments amount to nothing more than a hidden tax on hard-working Americans. And unlike a tax, which you can reasonably argue that at least it goes into the Government that is used to build better roads, better bridges, schools, health care and things like that, that doesn't go there. The benefits of higher interest rates go to the top 20 percent of Americans, who increasingly get more and more of the share of our national income. Again, I believe our free-enterprise system and our capitalist system and our capitalist economy will be far better off if, instead of keeping wages low and keeping the bottom 80 percent of our income earners falling lower, if we had a more balanced monetary policy in our nation. I believe our free enterprise system and our economy will be better off if the incomes and wealth of the top 20 percent grow at a proportion equal to the rest of society. If we do that, then I believe we will have a vibrant, growing economy that will be shared by all.

It is not going to happen unless we have a different mindset at the Federal Reserve System. I will continue to talk about this and will continue to fight for these policies as long as I am at least here in the U.S. Senate. I hope we will get people on the Federal Reserve Board who will bring a different view and a different opinion and who will not be afraid to go out and state those opinions and engender a more healthy, public debate.

I have to say, Mr. President, it would do my heart and my mind good, and I think the hearts and minds of the American people a lot of good, if we had a member of the Federal Reserve Board go out and start debating and talking about a different method, a different way of approaching the monetary policies now in place at the Federal Reserve Board.

I think the last time we had that happen some of the powers that be at the Federal Reserve Board came down on that person pretty hard. But I think that debate has to happen, and I am hopeful it will happen there, and it should happen here in the U.S. Senate. But we don't seem to be having that debate. We should have that debate because it means a lot to working Americans.

I sum up my comments by saying I didn't really want to unnecessarily hold up the appointments of Mr. Gramlich and Mr. Ferguson. I know they will go through by voice vote. That is fine with this Senator. But I think more often than we have, we have to debate monetary policy here on the floor of the U.S. Senate and what it means to the American people. Just as war is too important to be left to the generals, so is monetary policy too important just to be left to the bankers. We must also include our small business people, our farmers, our consumers in this debate and in the setting of the policy. That can only be done if we have a good, healthy debate.

Again, to sum up, Mr. President, what we need at the Fed is a policy of lower interest rates that will help our wages go up for our working Americans who have fallen too far behind so that they should get a fair share of our growth. Those lower interest rates will

also mean our economy will grow at a faster rate, which I believe it can. I believe the Federal Reserve is saying that the best economic growth we can hope for is the equivalent to a C average. I believe the working people of this country can do a lot better than that. I think our productivity is such and our work force is such that we can do a B+ or an A. Why shouldn't we try for a higher rate of growth?

I also believe that a change in the monetary policy of the Federal Reserve Board will mean that a lot of working Americans will have a little bit better lifestyle. Perhaps they can buy a better home with lower interest rates. Perhaps they can have a more decent car. Perhaps they can take their wife or kids out to a local restaurant to eat once in a while. Nothing wrong with that. Perhaps they can take a nice vacation once a year. Nothing wrong with that, either. Perhaps they can borrow a little bit more money at a better interest rate to put their kids through college. Nothing wrong with that, either.

In sum, the Federal Reserve policies, if they are changed to reduce our interest rates, I believe can mean a better life for working Americans all over our country. On the other hand, if the Fed continues its blind adherence to this arcane concept of NAIRU, if they continue their blind adherence to raising interest rates at merely the ghost of inflation, then I predict, Mr. President, that we are on the precipice of falling into a deflationary period in America. If that deflationary period happens, working Americans are going to be hit a lot harder than they ever would be by a small or modest increase in inflation.

Mr. LEVIN. Mr. President, today I expect that the Senate will give its approval to President Clinton's nomination of Dr. Edward Gramlich. This will bring the career of this distinguished University of Michigan professor full circle. Thirty-two years ago, Dr. Gramlich had his first professional experience with a research job at the Federal Reserve. Shortly, he will be returning to the place where he got his start in 1965, although this time he will not be a researcher but a Member of the Board.

Dr. Gramlich received his BA from Williams College and his MA and Ph.D. from Yale University. Since then he has held positions in a variety of government and academic areas. His academic positions include over 20 years at the University of Michigan as Dean of the School of Public Policy, Chairman of the Economics Department, Director of the Institute of Public Policy Studies and always Professor of Economics and Public Policy. He also held temporary positions at various other universities including Monash, George Washington, Cornell and Stockholm Universities.

Dr. Gramlich's government and research experience covers a wide range of subject areas. In 1970, he was the Director of the Public Research Division at the Office of Economic Opportunity where he studied economically efficient ways of dealing with poverty. In his capacity as Deputy and later Acting Director of the Congressional Budget Office, he worked to reduce the burgeoning deficits of the mid-1980s. While working on the Quadrennial Advisory Council on Social Security, he proposed a plan to preserve the social protections now built into Social Security while providing for enough total saving so that future retirement benefits can be preserved. In addition, Dr. Gramlich has written dozens of journal articles and reports on issues ranging from Social Security and school finances to Major League Baseball and deficit reduction.

In Dr. Gramlich's testimony before the Banking Committee hearing on his nomination, he said, ''I strongly feel that both economic and social goals are important. . . . A good economist should know how to balance both objectives, which is what I have tried to do throughout my career.'' This philosophy culled from his substantial experience has served his well in many capacities. The Banking Committee showed its full confidence in him in voting to approve the nomination, and I fully expect him to fulfill the expectations that the President and the Senate have placed in him.

Mr. HARKIN. Mr. President, I yield back all the time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VOTE ON THE NOMINATION OF EDWARD M. GRAMLICH

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Edward M. Gramlich, of Virginia, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1994?

The nomination was confirmed.

VOTE ON THE NOMINATION OF ROGER WALTON FERGUSON

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Roger Walton Ferguson, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1986?

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. Without objection, there will now be a period for morning business until the hour of 7 p.m., with Senators permitted to speak therein for up to 5 minutes each.

MAJ. GEN. ANSEL M. STROUD, JR.—AMERICAN HERO

Ms. LANDRIEU. Mr. President, I rise today to pay tribute to one of Louisiana's own true American heroes, Major General Ansel M. Stroud, Jr., Adjutant General for the State of Louisiana.

A native of Shreveport, Louisiana, General Stroud began his distinguished career in April of 1944, when he enlisted in the United States Army and was commissioned a second lieutenant following completion of Officer Candidate School in 1946. After serving active duty, he joined the Louisiana National Guard in June of 1947. During his service with the National Guard, he has served as a reconnaissance officer, company commander, regimental supply officer, aide to the commanding general of the 39th Infantry Division, and battalion commander. In 1968, he was assigned as Chief of Staff for the State Emergency Operations Center, and became commander of the 356th Support Center (RAO) in 1971. He was appointed to the position of Assistant Adjutant General on May 9, 1972, and in August 1978 accepted a dual assignment as the commander of the 256th Infantry Brigade (Mechanized). In October 1980, General Stroud accepted his current position of Adjutant General for Louisiana.

When reminiscing about General Stroud's career, one could easily point to his many military decoration and awards: most notably included are the Distinguished Service Medal, the Legion of Merit with two Oak Leaf Clusters, the Meritorious Service Medal with one Oak Leaf Cluster, the Army Commendation Medal, the World War II Victory Medal, the Louisiana Distinguished Service Medal, the Louisiana Cross of Merit and the Louisiana Emergency Service Medal with 19 Fleurs-de-lis just to name a few of the honors bestowed upon him. One can also see the direct impact his time in the Armed Services has made with such works as the ''Stroud Study.'' When General Stroud was selected to conduct a Department of Army study on full-time training and administration for the Guard and Reserve, his Study was accepted as a guideline for requirements of the National Guard and Army Reserve for full-time manning programs and was the basis for launching the AGR program.

In addition to his duties as Adjutant General, there are many other areas of service in which he has fulfilled with great distinction: the Boy Scouts of America in which he earned the Silver Beaver Award and the Distinguished Eagle Scout Award; past-president of the Adjutants General Association of the United States; past-president of the National Guard Association of the United States; and service as a member of the Federal Emergency Management

Agency's Advisory Board representing the National Guard Association of the United States.

Mr. President, I would, however, be remiss if I did not mention what I feel has been one of the most important aspects of the General's service to Louisiana: serving as the Director of the Louisiana Office of Emergency Preparedness (LOEP). Throughout the years, Louisianas have become all too familiar with life-threatening dangers presented by mother nature at her worst. General Stroud has certainly taken the motto ''be prepared'' to heart by ensuring that Louisiana is capable of handling the impact of natural disasters with order and efficiency. Under his supervision, operations at LOEP have undergone state-of-the art advances which have allowed personnel to provide immediate assistance to citizens affected by nature's fury.

Mr. President, many individuals have a calling to serve the public in a variety of ways. They make sacrifices to contribute their talents to the safety, security and well-being of others. These are the individuals whose commitment to excellence and selfless dedication are evident through their leadership and the challenges they choose to accept. On November 8, 1997, General Ansel Stroud will relinquish his present position as Adjutant General, a position he has dutifully held for over seventeen years of his fifty-three years of service to our country. Although he is leaving the realm of public service, the contributions he has made to the greater good of the State of Louisiana will continue to have affect for years to come. It is my most sincere wish that General Stroud and Jane, his wife, will reap all the best which life has to offer, May God bless and God speed.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, October 29, 1997, the Federal debt stood at $5,429,377,880,990.06 (Five trillion, four hundred twenty-nine billion, three hundred seventy-seven million, eight hundred eighty thousand, nine hundred ninety dollars and six cents).

One year ago, October 29, 1996, the Federal debt stood at $5,236,574,000,000 (Five trillion, two hundred thirty-six billion, five hundred seventy-four million).

Five years ago, October 29, 1992, the Federal debt stood at $4,067,523,000,000 (Four trillion, sixty-seven billion, five hundred twenty-three million).

Ten years ago, October 29, 1987, the Federal debt stood at $2,385,077,000,000 (Two trillion, three hundred eighty-five billion, seventy-seven million).

Fifteen years ago, October 29, 1982, the Federal debt stood at $1,142,825,000,000 (One trillion, one hundred forty-two billion, eight hundred twenty-five million) which reflects a debt increase of more than $4 trillion—$4,286,552,880,990.06 (Four trillion, two hundred eighty-six billion, five hundred fifty-two million, eight hundred eighty thousand, nine hundred ninety dollars and six cents) during the past 15 years.

MRS. LISA D'AMATO MURPHY, COMMUNITY LEADER OF THE YEAR

Mr. LOTT. Mr. President, today I was informed that Mrs. Lisa D'Amato Murphy, daughter of Senator D'AMATO, was chosen as ''Community Leader of the Year'' by the Island Park Kiwanis Club. Her significant volunteer participation in both civic and church activities is the basis for this distinguished award. It is important to mention that Lisa is the wife of Judge Jerry Murphy of the Island Park Village Court and the mother of five children. Yet, so strong is her commitment to others that she somehow finds the time to serve her community. While so many people bemoan the lack of hours in a day, Lisa clearly demonstrates that time for community service can be found—if it is a priority.

On behalf of the entire Senate family, I extend our sincere congratulations to Mrs. Lisa D'Amato Murphy, Island Park, New York's ''Community Leader of the Year.''

NOMINATION OF BILL LANN LEE

Mr. LEAHY. Mr. President, this has been an extraordinary week in Washington with the first State visit by the Chinese leadership since 1989. While President Jiang Zemin's visit has resulted in important agreements on economic, environmental and security issues between our two nations, it has not resulted in the hoped for progress on human rights issues in China.

Yesterday, I spoke about Ngawang Choephel, a Tibetan scholar and documentary filmmaker who was a Fulbright scholar at Middlebury College in Vermont. In 1995 he had gone to Tibet to document traditional Tibetan music and dance when he was detained by Chinese authorities and then sentenced to 18 years in prison for allegedly spying on behalf of the Dalai Lama. No evidence to support these claims has ever been produced, despite my persistent inquiries. Nor have the Chinese authorities provided any information about Mr. Choephel's whereabouts or health status over the past two years. I have raised these concerns with President Jiang directly, emphasizing to him that Mr. Choephel's release from prison would be a meaningful step in the right direction on human rights issues. Yesterday and today in meetings with the Chinese President, I raised this human rights issue, again.

The gulf between our two countries can most clearly be seen on the issue of human rights. This week demonstrates the distance between our two countries in another way as the Senate considers President Clinton's nomination of Bill Lann Lee to be the Assistant Attorney General in charge of the Civil Rights Division at the U.S. Department of Justice. When confirmed, Bill Lee will be the principal law enforcement officer of the Federal Government to ensure the civil rights and equal treatment of all Americans. He will also be the first Asian-American to hold this post and exercise such authority.

A meaningful step the Senate should take without delay is to confirm Bill Lee, a Chinese-American whose life story and life's work are quintessentially American. At the same time we are urging the Chinese Government to improve their human rights' record, we should demonstrate through action and not just words our own commitment to human rights and civil rights by proceeding without further delay on this important nomination.

Mr. Lee was born in Harlem to Chinese immigrant parents. His parents ran a laundry in New York. He went on to graduate from Yale College magna cum laude and then Columbia Law School. He testified last week that his childhood experiences, which included hearing racial slurs directed at his parents and his father's inability to rent an apartment after returning from volunteering for military service in World War II, greatly influenced his decision to dedicate his life to civil rights work. Mr. Lee's efforts over the years have ensured Americans of all races and creeds opportunities to advance in their careers, remain in their homes and raise healthy children.

Since July, Senator KENNEDY and I repeatedly urged the committee to hold a hearing on Mr. Lee's nomination before the Columbus Day recess in order to give this important nomination an opportunity to be considered by the Senate this year. Unfortunately that hearing only took place last week. Chairman HATCH has consistently indicated his commitment to getting this nomination considered before adjournment.

At the hearing, Mr. Lee answered hours of questions. The Republican members of the committee and the majority leader also submitted pages of written questions to him, which have also been answered. All members of the committee have met or had the opportunity to meet with the nominee personally. Unfortunately there was no business meeting of the Judiciary Committee this week. I have asked the chairman to report this nomination to the Senate without delay and hope that he will do so.

Bill Lee is a nominee who has impressed everyone with whom he has met. He is a man of integrity who has practiced mainstream civil rights law for 23 years. He is a practical problem solver, as attested to in tributes from opposing counsel and people from both political parties.

Chairman HATCH has clearly indicated that he views Bill Lee as imminently qualified for the Assistant Attorney General position at Department of Justice. At Mr. Lee's nomination

hearing last Wednesday, Senator HATCH referred to Bill Lee's ''long and distinguished career'' and noted his ''commitment to improving the lives of many Americans who have felt the sting of invidious discrimination.'' These comments are encouraging.

Senator HATCH has been stalwart in moving a number of top Justice Department nominees through the committee promptly. As examples, I point to the nomination of Eric Holder to be the Deputy Attorney General, Ray Fisher to be the Associate Attorney General, and Joel Klein to be the Assistant Attorney General for the Antitrust Division.

In connection with the confirmation of Assistant Attorney General Klein, Senator HATCH said:

''I believe it is neither fair nor wise to hold a nominee hostage because of such concerns, especially one as competent and decent as Joel Klein. In my view, sound public policy is best served by bringing this nominee up for a vote, permitting the Justice Department to proceed with a confirmed chief of the Antitrust Division, and for us in Congress to move forward and work with the Department and other involved agencies in the formulation and implementation of telecommunications policies.''

''There are times when I disagree with the President, but I have to say when he does a good job and when he does nominate good people . . . then I will support the President.

''I will do what I can to show support for him and to encourage him to continue to pick the highest quality people for these positions.''

Adhering to that policy should lead us to a prompt and favorable vote on Mr. Lee.

At the recent nomination hearing of Ray Fisher, Senator HATCH assured the administration that ''nominees for the Department of Justice will continue to receive thorough and prompt consideration by the committee.'' I am hopeful that Senator HATCH will apply this same standard to Mr. Lee's nomination.

I look forward to the vote on Bill Lee, a stellar nominee to head the Office of Civil Rights at Department of Justice. Mr. Lee's recent decision to recuse himself from any involvement in the Proposition 209 case further reflects his integrity and forthrightness on these sorts of matters.

Bill Lee's story is a true American saga. Raised by immigrants, in one generation he has risen to the top of his profession and is now being considered to head the Nation's civil rights division. Let us make sure the story ends the way it should—with the confirmation of Mr. Lee as Assistant Attorney General before we adjourn this session.

SUPPORTING NANCY-ANN MIN DEPARLE'S NOMINATION

Mr. KENNEDY. In June, the President nominated Nancy-Ann Min DeParle to be Administrator of the Health Care Financing Administration [HCFA]. When confirmed as the Head of HCFA, Ms. DeParle will be responsible for running Medicare, Medicaid, and the new children's health program, and provide valuable direction for other important health insurance initiatives. More than 70 million Americans—senior citizens, children, persons with disabilities and others—depend on these programs for lifesaving health care. Leaving this critically important agency without a leader during this challenging time is irresponsible and indefensible, and I urge the Senate to move quickly to confirm her nomination.

It is especially offensive that a Senator is holding this nomination hostage in order to extract a concession from the President on an HCFA-related issue. We all want things from HCFA, and those issues should be resolved as part of the legislative process, not by denying this important Federal agency the leadership it needs.

At this moment, a large number of Medicaid waivers are pending from States that want flexibility to go beyond the current rules. Hundreds, perhaps thousands, of decisions must be made regarding implementation of the Medicare provisions in the Balanced Budget Act—including the establishment of important new preventive benefits. This historic legislation also included the largest health insurance expansion since the creation of Medicare and Medicaid. It provides health insurance to uninsured children in working families who earn too much to qualify for Medicaid but not enough to purchase private health insurance. We all worked hard for this program. All 50 States will be submitting their plans for this coverage in the coming months and HCFA needs to take action.

Ms. DeParle is extremely well-qualified to lead HCFA. She served from 1993 to 1997 as the Associate Director for Health and Personnel at the Office of Management and Budget. In this capacity, she guided the development and implementation of budget and policy matters for all Federal health programs, including Medicare and Medicaid. In addition to other accomplishments, she has extensive experience running a state-level cabinet agency. From 1987 to 1989, she administered a 6,000-employee agency as commissioner of human services in Tennessee.

No significant objection to her nomination was raised at the Finance Committee hearing in September. She was approved unanimously by the committee on September 11, and she has been waiting since that day for the full Senate to act. It is long past time for the Senate to act.

THE CENTER FOR ADVANCED SIMULATION AND TECHNOLOGY

Mr. D'AMATO. Mr. President, I rise to engage the distinguished Chairman of the Senate Transportation Appropriations Subcommittee, Senator SHELBY, in a colloquy.

Mr. SHELBY. I would be pleased to accommodate the Senator from New York.

Mr. D'AMATO. I thank the Senator. I first would like to commend my friend and colleague from Alabama for the fine leadership he has shown in crafting the fiscal year 1998 Transportation Appropriations bill. He has done a wonderful job in allocating scarce federal resources equitably for New York and the entire nation for highway, transit, rail and other infrastructure needs.

I ask my colleague if he is familiar with an intermodal transportation simulation and technology project on Long Island called the Center for Advanced Simulation and Technology (CAST)?

Mr. SHELBY. I am familiar with it. This project is being developed at the National Aviation and Transportation Center on Long Island and is anticipated to provide an intermodal transportation simulation training, education and planning asset for the entire nation. A total of $19.5 million in federal funding over the next five years has been determined by officials at the National Aviation and Transportation Center as needed to help carry out this project. According to these same officials, this level of federal funding is expected to trigger at least $5 million in private sector contributions and up to $7.5 million in funding from New York State.

Mr. D'AMATO. As my friend knows, no specific appropriation was provided in the fiscal year 1998 conference agreement to allow CAST to go forward in this fiscal year. Therefore, I would like to work with the Chairman, the Long Island Congressional delegation and the Department of Transportation in an effort to find a source of funding to continue work on CAST in this fiscal year.

Mr. SHELBY. Mr. President, the Senator from New York has my assurance that I will work with him to try and identify a source of funding that will allow the CAST effort to commence in fiscal year 1998.

Mr. D'AMATO. I thank my friend and colleague.

FTC ''MADE IN USA'' RULES

Mr. ABRAHAM. Mr. President, as my colleagues no doubt are aware, I joined with Senator HOLLINGS, to submit a concurrent resolution (S. Con. Res. 52) to reaffirm the Senate's support for the traditional, simple, and honest use of the ''Made in U.S.A.'' label. That use was in accordance with the long-standing rule that articles so labelled be made ''all or virtually all'' in the United States. Over two hundred members have cosponsored a measure similar to the Hollings-Abraham resolution in the House of Representatives, introduced by Representatives BOB FRANKS of New Jersey and JOHN DINGELL of Michigan.

Senator HOLLINGS, Congressman FRANKS and Congressman DINGELL joined me in sending a letter to the

Federal Trade Commission urging that agency to maintain the current standard. As we said in that letter, ''Any definition or enforcement standard of 'all or virtually all' that would allow more than a de minimis level of foreign content is unacceptable to us and, we strongly believe, would be unacceptable to the Congress.''

Mr. President, I ask unanimous consent that the full text of this letter be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, October 20, 1997.

Hon. ROBERT PITOFSKY,
Chairman, Federal Trade Commission,
Washington, DC.

DEAR CHAIRMAN PITOFSKY: We are writing this bicameral and bipartisan letter to reiterate our strong opposition to any weakening of the standard for the use of the ''Made in USA'' label. In light of recent press reports of possible Commission consideration of a new proposal to lower the ''Made in USA'' label standard to 89 percent U.S. domestic content, we felt compelled to reiterate what growing numbers of our colleagues in the Congress on both sides of the aisle are saying: neither we nor the American people will tolerate any lowering of the standard for the ''Made in USA'' label.

In its proposed guidelines issued last May, the Commission itself described the current standard as follows:

''Cases brought by the Commission beginning over 50 years ago established the principle that it was deceptive for a marketer to promote a product with an unqualified 'Made in USA' claim unless that product was wholly of domestic origin. Recently, this standard had been rearticulated to require that a product advertised as 'Made in USA' be 'all or virtually all' made in the United States, i.e., that all or virtually all of the parts are in the U.S. and all or virtually all of the labor is performed in the U.S. In both cases, however, the import has been the same: unqualified claims of domestic origin were deemed to imply to consumers that the product for which the claims were made was in all but de minimis amounts made in the U.S.A.''[1]

Clearly, an 89 percent U.S. Content standard would allow much more than a de minimis amount of foreign content and therefore would lower the standard for the use of the ''Made in USA'' label.

We the undersigned introduced legislation in both the House and Senate (H. Con. Res. 80 and S. Con. Res. 52, respectively) to specifically condemn any lowering of the standard for the use of the ''Made in USA'' label. H. Con. Res. 80 has now been cosponsored by 219 Representatives, a majority of the U.S. House (see enclosed cosponsor list). We note that these Members do not just represent votes against any weakening of the label. But are Members who felt strongly enough about this issue to join with us as cosponsors of this legislation. S. Con. Res. 52, while introduced only recently is receiving the same favorable reception as its companion in the House.

The language of these Resolutions is clear and to the point: ''Resolved by the House of Representatives (the Senate concurring), That the Congress (1) maintains that the standard for the ''Made in USA'' label should continue to be that a product was all or virtually all made in the United States; (2) urges the Federal Trade Commission to refrain from lowering this standard at the expense of consumers and jobs in the United States.''

Any definition or enforcement standard of ''all or virtually all'' that would allow more than a de minimis level of foreign content is unacceptable to us and, we strongly believe, would be unacceptable to the Congress.

We urge you to reject any recommendation to lower the current standard for the use of the ''Made in USA'' label and to enforce vigorously the current standard.

Thank you very much.

Sincerely,

JOHN DINGELL,
Member of Congress.
ERNEST HOLLINGS,
United States Senate.
BOB FRANKS,
Member of Congress.
SPENCER ABRAHAM,
United States Senate.

Mr. ABRAHAM. I have been informed that the FTC will soon make an announcement regarding the ''Made in USA'' label, probably next week. I am hopeful that the FTC will maintain the current standard, and urge my colleagues to contact the FTC to add their voices to the chorus calling for that decision.

I believe it is crucial for American workers and the American economy that we maintain the integrity of the ''Made in USA'' label. For over 50 years, consumer goods have worn this label when, and only when, they were made ''all or virtually all'' in the United States.

But recently the (FTC) announced plans to soften that rule, allowing companies to use the label any product on which they spent 75% of their total manufacturing costs, provided the product was last ''substantially transformed'' here in the United States. A product also could be labeled ''Made in USA'' if that product, and all its significant parts and other inputs, were last substantially transformed in the United States.

In practice, this means that products containing no materials or parts of U.S. origin could nonetheless be labeled ''Made in USA.''

I believe that would be wrong, These new rules would be a slap in the face to American workers. They also would in effect condone false advertising. Many Americans look specifically for the ''Made in USA'' label because they want to support American workers. These loyal Americans do not believe that they are purchasing products ''mostly'' made in the USA, let alone products for which ''most manufacturing costs'' were incurred in the USA, or which were ''substantially transformed'' in the USA. Quite rightly, consumers who look for the ''Made in USA'' label believe that when they purchase a product with that label they are getting something made all or virtually all in the United States.

Perhaps worst of all, Mr. President, these new rules will hurt American workers. Many companies have invested a great deal in plant and equipment, as well as hiring and training, in the United States. These companies have a right to expect that the ''Made in USA'' label, which they have worked so hard to earn and maintain, will continue to apply only to products made all, or virtually all, in the United States. If they lose that advantage, these companies may well decide to move some or all of their production—and American jobs—overseas.

To dilute the requirement for use of the ''Made in USA'' label would be to lower the value of that label. It would allow companies operating substantially overseas to deceive American consumers who are attempting to support truly American made products and workers. It would discourage companies from investing in this country by telling them, in effect, that they will no longer receive any benefit for keeping jobs at home. The result would be a loss of American jobs and morale, as well as a critical blow to consumer confidence in the veracity of product labels.

The American people have a right to expect that the ''Made in USA'' label will mean what it says. For over 50 years they have depended on that label to assure them that they are purchasing products made ''all or virtually all'' in the United States. I again call on the FTC to maintain the traditional standard for labelling products ''Made in USA,'' and urge my colleagues to do the same.

I yield the floor.

MESSAGE FROM THE PRESIDENT

REPORT CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 76

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

[1] Federal Trade Commission Request for Public Comment on Proposed Guides for the Use of U.S. Origin Claims, Federal Register, Vol. 62, No. 88, May 7, 1997, p. 25050.

The proposed agreement with Brazil has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Brazil under appropriate conditions and controls reflecting a strong common commitment to nuclear nonproliferation goals.

The proposed new agreement will replace an existing United States-Brazil agreement for peaceful nuclear cooperation that entered into force on September 20, 1972, and by its terms would expire on September 20, 2002. The United States suspended cooperation with Brazil under the 1972 agreement in the late 1970s because Brazil did not satisfy a provision of section 128 of the Atomic Energy Act (added by the Nuclear Non-Proliferation Act of 1978) that required full-scope International Atomic Energy Agency (IAEA) safeguards in nonnuclear weapon states such as Brazil as a condition for continued significant U.S. nuclear exports.

On December 13, 1991, Brazil, together with Argentina, the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABAAC) and the IAEA signed a quadrilateral agreement calling for the application of full-scope IAEA safeguards in Brazil and Argentina. This safeguards agreement was brought into force on March 4, 1994. Resumption of cooperation would be possible under the 1972 United States-Brazil agreement for cooperation. However, both the United States and Brazil believe it is preferable to launch a new era of cooperation with a new agreement that reflects, among other things:

—An updating of terms and conditions to take account of intervening changes in the respective domestic legal and regulatory frameworks of the Parties in the area of peaceful nuclear cooperation;

—Reciprocity in the application of the terms and conditions of cooperation between the Parties; and

—Additional international nonproliferation commitments entered into by the Parties since 1972.

Over the past several years Brazil has made a definitive break with earlier ambivalent nuclear policies and has embraced wholeheartedly a series of important steps demonstrating its firm commitment to the exclusively peaceful uses of nuclear energy. In addition to its full-scope safeguards agreement with the IAEA, Brazil has taken the following important nonproliferation steps:

—It has formally renounced nuclear weapons development in the Foz do Iguazsu declaration with Argentina in 1990;

—It has renounced ''peaceful nuclear explosives'' in the 1991 Treaty of Guadalajara with Argentina;

—It has brought the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) into force for itself on May 30, 1994;

—It has instituted more stringent domestic controls on nuclear exports and become a member of the Nuclear Suppliers Group; and

—It has announced its intention, on June 20, 1997, to accede to the Nuclear Non-Proliferation Treaty (NPT).

The proposed new agreement with Brazil permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components thereof. In the event of termination key conditions and controls continue with respect to material and equipment subject to the agreement.

From the U.S. perspective, the proposed new agreement improves on the 1972 agreement by the addition of a number of important provisions. These include the provisions for full-scope safeguards; perpetuity of safeguards; a ban on ''peaceful'' nuclear explosives using items subject to the agreement; a right to require the return of items subject to the agreement in all circumstances for which U.S. law requires such a right; a guarantee of adequate physical security; and rights to approve enrichment of uranium subject to the agreement and alteration in form or consent of sensitive nuclear material subject to the agreement.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 30, 1997.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 4:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1227. An act to amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title.

H.R. 2013. An act to designate the facility of the United States Postal Service located at 551 Kingstown Road in South Kingstown, Rhode Island, as the ''David B. Campagne Post Office Building''.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

REPORTS OF COMMITTEES

The following report of a committee was submitted on October 29, 1997:

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 987: A bill to amend title 38, United States Code, to authorize a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and dependency and indemnity compensation for survivors of such veterans and to revise and improve certain veterans compensation, pension, and memorial affairs programs; and for other purposes (Rept. No. 105–120).

The following reports of committees were submitted on October 30, 1997:

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 714. A bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs (Rept. No. 105–123).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1231. A bill to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes (Rept. No. 105–124).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 799: A bill to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property (Rept. No. 105–125).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 814. A bill to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest (Rept. No. 105–126).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1324. A bill to deauthorize a portion of the project for navigation, Biloxi Harbor, Mississippi.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 104–30 Taxation Agreement With Turkey (Exec. Rept. 105–6)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the Government of the United States of America and the Government of the Republic of Turkey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol, signed at Washington on March 28, 1996 (Treaty Doc. 104–30) subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 104–31 Taxation Convention With Austria (Exec. Rept. 105–7).

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Vienna on May 31, 1996 (Treaty Doc. 104–31), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) OECD COMMENTARY.—Provisions of the Convention that correspond to provisions of the Organization for Economic Cooperation and Development (OECD) Model Tax Convention on Income and on Capital generally shall be expected to have the same meaning as expressed in the OECD Commentary thereon. The United States understands, however, that the foregoing will not apply with respect to any reservations or observations it enters to the OECD Model or its Commentary and that it may enter such a reservation or observation at any time.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—The United States shall use its best efforts to negotiate with the Republic of Austria a protocol amending the Convention to provide for the application of subparagraph (b) of paragraph 2 of Article 10 of the Convention to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded or (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 104–33 Taxation Convention With Luxembourg (Exec. Rept. 105–8)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Luxembourg on April 3, 1996 (Treaty Doc. 104–33), subject to the reservation of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) RESERVATION.—The Senate's advice and consent is subject to the following reservation, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (a)(ii) of paragraph 2 of Article 10 of the Convention shall apply to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded, (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified, or (iii) the beneficial owner of the dividends beneficially held an interest in the Real Estate Investment Trust as of June 30, 1997, the dividends are paid with respect to such interest, and the Real Estate Investment Trust is diversified (provided that such provision shall not apply to dividends paid after December 31, 1999 unless the Real Estate Investment Trust is publicly traded on December 31, 1999 and thereafter).

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) SIMULTANEOUS EXCHANGE.—The United States shall not exchange the instruments of ratification of this Convention with the Government of the Grand Duchy of Luxembourg until such time as it exchanges the instruments of ratification with respect to the Treaty Between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg on Mutual Legal Assistance in Criminal Matters, signed at Washington on March 13, 1997 (Treaty Doc. 105–11).

(2) TREATY INTERPRETATION.—The Senate affirms the applicability of all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105–2 Taxation Convention With Thailand (Exec. Rept. 105–9)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Kingdom of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Bangkok, November 26, 1996 (Treaty Doc. 105–2), subject to the declaration of subsection (a); and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105–8 Tax Convention With Switzerland (Exec. Rept. 105–10)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Washington,

October 2, 1996, together with a Protocol to the Convention (Treaty Doc. 105–8), subject to the declarations of subsection (a), and the proviso of subsection (b).

(a) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—The United States shall use its best efforts to negotiate with the Swiss Confederation a protocol amending the Convention to provide for the application of subparagraph (b) of paragraph 2 of Article 10 of the Convention to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded or (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105–9 Tax Convention With South Africa (Exec. Rept. 105–11)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Republic of South Africa for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at Cape Town February 17, 1997 (Treaty Doc. 105–9), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105–29 Protocol Amending Tax Convention With Canada (Exec. Rept. 105–12)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the United States of America and Canada with Respect to Taxes on Income and on Capital Signed at Washington on September 26, 1980 as Amended by the Protocols Signed on June 14, 1983, March 28, 1984 and March 17, 1995, signed at Ottawa on July 29, 1997 (Treaty Doc. 105–29) subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105–31 Tax Convention With Ireland (Exec. Rept. 105–13).

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital gains, signed at Dublin on July 28, 1997, together with a Protocol and exchange of notes done on the same date (Treaty Doc. 105–31), subject to the understanding of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) EXCHANGE OF INFORMATION.—The United States competent authority follows a practice of comity with respect to exchanges of information under all tax conventions.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—The United States shall use its best efforts to negotiate with the Government of Ireland a protocol amending the Convention to provide for the application of subparagraph (b) of paragraph 2 of Article 10 of the Convention to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded or (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BROWNBACK (for himself, Mr. SMITH of Oregon, Mr. LUGAR, Mr. HAGEL, Mr. MCCAIN, Mr. HELMS, and Mr. BYRD):

S. 1344. A bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of South Caucasus and Central Asia; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself and Ms. COLLINS):

S. 1345. A bill to amend titles XVIII and XIX of the Social Security Act to expand and clarify the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Finance.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 1346. A bill to amend title 18, United States Code, to increase the penalties for certain offenses in which the victim is a child; to the Committee on the Judiciary.

By Mr. GLENN:

S. 1347. A bill to permit the city of Cleveland, Ohio, to convey certain lands that the United States conveyed to the city; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself, Mr. DASCHLE, Mr. MOYNIHAN, and Mr. KERREY):

S. 1348. A bill to provide for innovative strategies for achieving superior environmental performance, and for other purposes; to the Committee on Environment and Public Works.

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

S. 1349. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel PRINCE NOVA, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 1350. A bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BURNS:

S. 1351. A bill to amend the Sikes Act to establish a mechanism by which outdoor recreation programs on military installations will be accessible to disabled veterans, military dependents with disabilities, and other persons with disabilities; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. GRAMS (for himself and Mr. SMITH of Oregon):

S. Con. Res. 58. A concurrent resolution expressing the sense of Congress over Russia's newly passed religion law; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWNBACK (for himself, Mr. SMITH of Oregon, Mr. LUGAR, Mr. HAGEL, Mr. MCCAIN, Mr. HELMS, and Mr. BYRD):

S. 1344. A bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of South Caucasus and Central Asia; to the Committee on Foreign Relations.

THE SILK ROAD STRATEGY ACT OF 1997

Mr. BROWNBACK. Mr. President, I am introducing the Silk Road Strategy Act of 1977. This is an overarching policy between the countries of the South Caucasus and Central Asia, which includes the countries of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. Those are not common names to most Americans, but the area of the world that they are around, the Caspian Sea, I think, is going to become far more common knowledge to many Americans, as there is 4 trillion dollars worth of known oil and gas in the region.

The region is reaching out to us. They are seeking to put off the Russian imperialism that has been in the region for years and seeking to get away from Iranian influence in the area.

Thus, we are putting forward this Silk Road strategy as an active and positive role in reviving the economies of this region of the world and to building them as major forces.

I think the United States has a vital political, social and economic interest in the region, and we need to act now rather than later. I don't think our window of opportunity in working with these countries as they seek freedom and yearn to be free and build opportunity for their people is long. Probably within the next 3 years, they are going to be making courses and decisions that will decide the long-term fate of the people of this region.

They seek to be united with the United States. I ask, overall, that my colleagues look at this potential opportunity, at this bill and support the Silk Road Strategy Act of 1997. It is a key interest area for us and our future.

This bill is aimed at focusing the attention of U.S. policy on the need to play an active and positive role in reviving the economies of these parts of the ancient Silk Road which was once the economic lifeline of Central Asia and the South Caucasus and the main transportation corridor to Europe and the West.

The United States has vital political, social, and economic interests there and they need to be acted on now, before it is too late. These countries are at an historic crossroad: They are independent for the first time in almost a century, located at the juncture of many of today's major world forces and they are all rich in natural resources. They are emerging from almost a century of plunder by a Communist regime which, while it actively drained their resources, put little back. They now find themselves free to govern themselves, and they are looking west.

The very fact that they have little experience of independence and that their economies are essentially starting from scratch, leaves them in a precarious situation, which is all the more precarious because of their geographic location: consider this: They are placed between the Empire from which they recently declared independence and an extremist Islamic regime to the south—both of which have a strong interest in exerting economic and political pressure upon them.

These countries are very important to us:

They are a major force in containing the spread northward of anti-western Iranian extremism. Though Iranian activity in the region has been less blatant than elsewhere in the world, they are working very hard to bring the region into their sphere of influence and economic control.

The Caspian Sea basin contains proven oil and gas reserves which, potentially, could rank third in the world after the Middle East and Russia and exceed $4 trillion in value. Investment in this region could ultimately reduce United States dependence on oil imports from the volatile Persian Gulf and could provide regional supplies as an alternative to Iranian sources.

Strong market economies near Russia and China can only help to positively influence these two countries on their rocky path toward freedom.

Finally, this region offers us a historic opportunity to spread freedom and democratic ideals. After years of fighting communism in this region, the doors are open to promote institutions of democratic government and to create the conditions for the growth of pluralistic societies, including religious tolerance.

The single best way to consolidate our goals in the region is to promote regional cooperation and policies which will strengthen the sovereignty of each nation. Each of these countries has its own individual needs; however, many of the problems in the region overlap and are shared, and a number of common solutions and approaches can apply. This bill encourages this goal.

All of the Silk Road countries are currently seeking U.S. investment and encouragement, and they are looking to us to assist them in working out regional political, economic and strategic cooperation. This bill authorizes assistance in all these areas.

Given the correct infrastructure development, this region is and will continue to become, a key transit point that will ultimately link Central Asia with the West—as it did in the time when caravans traveled along these same routes in the Middle Ages.

Opportunities to assist this infrastructure development abound—taking advantage of these opportunities could not only cement political ties, but commercial and economic ones as well.

The United States should do everything possible to promote this sovereignty and independence, as well as encourage solid diplomatic and economic cooperation between these nations.

In order to do this we need to take a number of positive steps: We should be strong and active in helping to resolve local conflicts; we should be providing economic assistance to provide positive incentives for international private investments and increased trade; we should be assisting in the development of infrastructure necessary for communities, transportation, and energy and trade on an East-West axis; we should be providing security assistance to help fight the scourge of narcotics trafficking, the spread of weapons of mass destruction and the spread or organized crime; and—perhaps the most important of all—we should be supplying all the assistance possible to strengthen democracy, tolerance and the development of civil society. These are the best ways to insure these countries remain independent and strong and that they move toward open and free government.

Mr. President, the time to focus and act in this region is now. We have the opportunity to help these countries rebuild from the ground up and to encourage them to continue their strong independent stances, especially in relation to Iran and the spread of extremist, anti-Western fundamentalism, which is one of the most clear and present dangers facing the United States today. I hope my colleagues will join me and support his bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1344

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Silk Road Strategy Act of 1997''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The ancient Silk Road, once the economic lifeline of Central Asia and the South Caucasus, traversed much of the territory now within the countries of Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(2) Economic interdependence spurred mutual cooperation among the peoples along the Silk Road and restoration of the historic relationships and economic ties between those peoples is an important element of ensuring their sovereignty as well as the success of democratic and market reforms.

(3) The development of strong political and economic ties between countries of the South Caucasus and Central Asia and the West will foster stability in the region.

(4) The development of open market economies and open democratic systems in the countries of the South Caucasus and Central Asia will provide positive incentives for international private investment, increased trade, and other forms of commercial interactions with the rest of the world.

(5) The Caspian Sea Basin, overlapping the territory of the countries of the South Caucasus and Central Asia, contains proven oil and gas reserves that may exceed $4,000,000,000,000 in value.

(6) The region of the South Caucasus and Central Asia will produce oil and gas in sufficient quantities to reduce the dependence of the United States on energy from the volatile Persian Gulf region.

(7) United States foreign policy and international assistance should be narrowly targeted to support the economic and political independence of the countries of the South Caucasus and Central Asia.

SEC. 3. POLICY OF THE UNITED STATES.

It shall be the policy of the United States in the countries of the South Caucasus and Central Asia—

(1) to promote and strengthen independence, sovereignty, and democratic government;

(2) to assist actively in the resolution of regional conflicts;

(3) to promote friendly relations and economic cooperation;

(4) to help promote market-oriented principles and practices;

(5) to assist in the development of the infrastructure necessary for communications, transportation, and energy and trade on an East-West axis in order to build strong international relations and commerce between those countries and the stable, democratic, and market-oriented countries of the Euro-Atlantic Community; and

(6) to support United States business interests and investments in the region.

SEC. 4. UNITED STATES EFFORTS TO RESOLVE CONFLICTS IN GEORGIA, AZERBAIJAN, AND TAJIKISTAN.

It is the sense of Congress that the President should use all diplomatic means practicable, including the engagement of senior United States Government officials, to press for an equitable, fair, and permanent resolution to the conflicts in Georgia and Azerbaijan and the civil war in Tajikistan.

SEC. 5. AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.

Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new chapter:

"Chapter 12—Support for the Economic and Political Independence of the Countries of the South Caucasus and Central Asia

"SEC. 499. UNITED STATES ASSISTANCE TO PROMOTE RECONCILIATION AND RECOVERY FROM REGIONAL CONFLICTS.

''(a) PURPOSE OF ASSISTANCE.—The purposes of assistance under this section are—

''(1) to create the basis for reconciliation between belligerents;

''(2) to promote economic development in areas of the countries of the South Caucasus and Central Asia impacted by civil conflict and war; and

''(3) to encourage broad regional cooperation among countries of the South Caucasus and Central Asia that have been destabilized by internal conflicts.

''(b) AUTHORIZATION FOR ASSISTANCE.—

''(1) IN GENERAL.—To carry out the purposes of subsection (a), the President is authorized to provide humanitarian assistance and economic reconstruction assistance under this Act, and assistance under the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601 et seq.), to the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

''(2) DEFINITION OF HUMANITARIAN ASSISTANCE.—In this subsection, the term 'humanitarian assistance' means assistance to meet urgent humanitarian needs, in particular meeting needs for food, medicine, medical supplies and equipment, and clothing.

''(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to—

''(1) providing for the essential needs of victims of the conflicts;

''(2) facilitating the return of refugees and internally displaced persons to their homes; and

''(3) assisting in the reconstruction of residential and economic infrastructure destroyed by war.

''(d) POLICY.—It is the sense of Congress that the United States should, where appropriate, support the establishment of neutral, multinational peacekeeping forces to implement peace agreements reached between belligerents in the countries of the South Caucasus and Central Asia.

"SEC. 499A. ECONOMIC ASSISTANCE.

''(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to foster the conditions necessary for regional economic cooperation in the South Caucasus and Central Asia.

''(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide technical assistance to the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

''(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to the development of the structures and means necessary for the growth of private sector economies based upon market principles.

''(d) POLICY.—It is the sense of Congress that the United States should—

''(1) assist the countries of the South Caucasus and Central Asia to develop laws and regulations that would facilitate the ability of those countries to join the World Trade Organization;

''(2) provide permanent nondiscriminatory trade treatment (MFN status) to the countries of the South Caucasus and Central Asia; and

''(3) consider the establishment of zero-to-zero tariffs between the United States and the countries of the South Caucasus and Central Asia.

"SEC. 499B. DEVELOPMENT OF INFRASTRUCTURE.

''(a) PURPOSE OF ASSISTANCE.—The purposes of assistance under this section are—

''(1) to develop the physical infrastructure necessary for regional cooperation among the countries of the South Caucasus and Central Asia; and

''(2) to encourage closer economic relations between those countries and the United States and other developed nations.

''(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purposes of subsection (a), the following types of assistance to the countries of the South Caucasus and Central Asia are authorized to support the activities described in subsection (c):

''(1) Activities by the Export-Import Bank to complete the review process for eligibility for financing under the Export-Import Bank Act of 1945.

''(2) The provision of insurance, reinsurance, financing, or other assistance by the Overseas Private Investment Corporation.

''(3) Assistance under section 661 of this Act (relating to the Trade and Development Agency).

''(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to promoting actively the participation of United States companies and investors in the planning, financing, and construction of infrastructure for communications, transportation, and energy and trade including highways, railroads, port facilities, shipping, banking, insurance, telecommunications networks, and gas and oil pipelines.

''(d) POLICY.—It is the sense of Congress that the United States representatives at the International Bank for Reconstruction and Development, the International Finance Corporation, and the European Bank for Reconstruction and Development should encourage lending to the countries of the South Caucasus and Central Asia to assist the development of the physical infrastructure necessary for regional economic cooperation.

"SEC. 499C. SECURITY ASSISTANCE.

''(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to assist countries of the South Caucasus and Central Asia to secure their borders and implement effective controls necessary to prevent the trafficking of illegal narcotics and the proliferation of technology and materials related to weapons of mass destruction (as defined in section 2332a(c)(2) of title 18, United States Code), and to contain and inhibit transnational organized criminal activities.

''(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide the following types of assistance to the countries of the South Caucasus and Central Asia to support the activities described in subsection (c):

''(1) Assistance under chapter 5 of part II of this Act (relating to international military education and training).

''(2) Assistance under chapter 8 of this part of this Act (relating to international narcotics control assistance).

''(3) The transfer of excess defense articles under section 516 of this Act (22 U.S.C. 2321j).

''(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to assisting those countries of the South Caucasus and Central Asia in developing capabilities to maintain national border guards, coast guard, and customs controls.

''(d) POLICY.—It is the sense of Congress that the United States should encourage and assist the development of regional military cooperation among the countries of the South Caucasus and Central Asia through programs such as the Central Asian Battalion and the Partnership for Peace of the North Atlantic Treaty Organization.

"SEC. 499D. STRENGTHENING DEMOCRACY, TOLERANCE, AND THE DEVELOPMENT OF CIVIL SOCIETY.

''(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to promote institutions of democratic government and to create the conditions for the growth of pluralistic societies, including religious tolerance.

''(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the

President is authorized to provide the following types of assistance to the countries of the South Caucasus and Central Asia.

''(1) Technical assistance for democracy building.

''(2) Technical assistance for the development of nongovernmental organizations.

''(3) Technical assistance for development of independent media.

''(4) Technical assistance for the development of the rule of law.

''(5) International exchanges and advanced professional training programs in skill areas central to the development of civil society.

''(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to activities that directly and specifically are designed to advance progress toward the development of democracy.

''(d) POLICY.—It is the sense of Congress that the Voice of America and RFE/RL, Incorporated, should maintain high quality broadcasting for the maximum duration possible in the native languages of the countries of the South Caucasus and Central Asia.

''SEC. 499E. INELIGIBILITY FOR ASSISTANCE.

''(a) IN GENERAL.—Except as provided in subsection (b), assistance may not be provided under this chapter for a country of the South Caucasus or Central Asia if the President determines and certifies to the appropriate congressional committees that the country—

''(1) is engaged in a consistent pattern of gross violations of internationally recognized human rights;

''(2) has, on or after the date of enactment of this chapter, knowingly transferred to another country—

''(A) missiles or missile technology inconsistent with the guidelines and parameters of the Missile Technology Control Regime (as defined in section 11B(c) of the Export Administration Act of 1979 950 U.S.C. App. 2410b(c); or

''(B) any material, equipment, or technology that would contribute significantly to the ability of such country to manufacture any weapon of mass destruction (including nuclear, chemical, and biological weapons) if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of such weapons;

''(3) has supported acts of international terrorism;

''(4) is prohibited from receiving such assistance by chapter 10 of the Arms Export Control Act or section 306(a)(1) and 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5604(a)(1), 5605); or

''(5) has initiated an act of aggression against another state in the region after the date of enactment of the Silk Road Strategy Act of 1997.

''(b) EXCEPTION TO INELIGIBILITY.—Notwithstanding subsection (a), assistance may be provided under this chapter if the President determines and certifies in advance to the appropriate congressional committees that the provision of such assistance is important to the national interest of the United States.

''SEC. 499F. ADMINISTRATIVE AUTHORITIES.

''(a) ASSISTANCE THROUGH GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS.—Assistance under this chapter may be provided to governments or through nongovernmental organizations.

''(b) USE OF ECONOMIC SUPPORT FUNDS.—Except as otherwise provided, any funds that have been allocated under chapter 4 of part II for assistance for the independent states of the former Soviet Union may be used in accordance with the provisions of this chapter.

''(c) TERMS AND CONDITIONS.—Assistance under this chapter shall be provided on such terms and conditions as the President may determine.

''(d) SUPERSEDING EXISTING LAW.—The authority to provide assistance under this chapter supersedes any other provision of law, except for—

''(1) this chapter;

''(2) section 634A of this Act and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs Act; and

''(3) section 1341 of title 31, United States Code (commonly referred to as the ''Anti-Deficiency Act''), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.

''SEC. 499G. DEFINITIONS.

''In this chapter:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

''(2) COUNTRIES OF THE SOUTH CAUCASUS AND CENTRAL ASIA.—The term 'countries of the South Caucasus and Central Asia' means Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgystan, Tajikistan, Turkmenistan, and Uzbekistan.''.

SEC. 6. ANNUAL REPORT.

Beginning one year after the date of enactment of this Act, and annually thereafter, the President shall submit a report to the appropriate congressional committees—

(1) identifying the progress of United States foreign policy to accomplish the policy identified in section 3;

(2) evaluating the degree to which the assistance authorized by chapter 12 of part I of the Foreign Assistance Act of 1961, as added by section 5 of this Act, was able to accomplish the purposes identified in those sections; and

(3) recommending any additional initiatives that should be undertaken by the United States to implement the policy and purposes contained in this Act.

SEC. 7. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) COUNTRIES OF THE SOUTH CAUCASUS AND CENTRAL ASIA.—The term ''countries of the South Caucasus and Central Asia'' means Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgystan, Tajikistan, Turkmenistan, and Uzbekistan.

By Mr. ROCKEFELLER (for himself and Ms. COLLINS):

S. 1345. A bill to amend titles XVIII and XIX of the Social Security Act to expand and clarify the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Finance.

THE ADVANCE PLANNING AND COMPASSIONATE CARE ACT OF 1997

Mr. ROCKEFELLER. Mr. President, I am extremely pleased to be introducing the Advance Planning and Compassionate Care Act of 1997 with my colleague from Maine, Senator COLLINS. I have already had the great pleasure of working with Senator COLLINS on legislation earlier this year to improve the portability of Medigap insurance policies. We were successful in getting a good portion of that legislation enacted this year, so I am very pleased to have another opportunity to work with Senator COLLINS on another set of issues that are so important to millions of Medicare beneficiaries and the rest of America.

We introduce this legislation to ask Congress to take action that responds directly and humanely to the needs of elderly and others during some of their most difficult and often traumatic time of their lives. The United States deserves to be extremely proud of the medical advances and efforts that have extended our people's life expectancy and our ability to overcome disease and medical setbacks. But we need to take some additional, tangible steps to also make progress in the practices and care that affect our citizens when they ultimately face death or the real possibility of death. Our bill provides some of those steps.

While this is a difficult area to discuss, it is a very real area for Americans year in and year out. This is legislation designed to respond to pressing needs of patients, their family members, and their health care providers, and I hope that Congress will adopt these steps in the next year.

In view of the debate this year on physician assisted suicide and from my own personal experiences, I have spent considerable time delving into the concerns and dilemmas that face patients, their family members, and their physicians when confronted with death or the possibility of dying. In almost all such difficult situations, people are not thinking about physician-assisted suicide. The needs and dilemmas that confront them have much more to do with the kind of care and information that they need, often desperately.

The legislation we are introducing today builds on bipartisan legislation enacted in 1990, called the Patient Self-Determination Act. That legislation was championed by my former colleague from Missouri, Senator Danforth. I held a subcommittee hearing on Senator Danforth's legislation and it became very clear that the lack of a national policy on advance directives was not acceptable. As a result of that bill, hospitals, skilled nursing facilities, home health agencies, hospice programs, and HMO's participating in the Medicaid and Medicare programs must provide every adult receiving medical care with written information concerning patient involvement in their own treatment decisions. The health care institutions must also document in the medical record whether the patient has an advance directive. In addition, States were required to write description of their State laws concerning advance directives.

Mr. President, at the time of that bill's enactment, we realized that it was only the first step toward increasing public awareness and addressing

some very difficult issues related to end-of-life care. As a result of that legislation, a growing number of Americans do have advance directives. But recent studies have found that the majority of Americans have not discussed end-of-life issues with their families or their physicians and have not relayed their treatment preferences either verbally or in writing.

There is also an increasing awareness that physicians and many other health care providers are uncomfortable addressing end-of-life issues and are even apparently unwilling to respect their patient's preferences in some cases. Another complicating factor is the great variation that exists among State laws, and the lack of a legal requirement that an advance directive written in one State be respected in another State.

Mr. President, the legislation we are introducing today focuses on the need to improve end-of-life care for Medicare beneficiaries. It addresses the need to develop models of compassionate care and quality measures for end-of-life care in the Medicare Program, and it will encourage individuals to have more open communication with family members and health care providers concerning their preferences for end-of-life care.

The first section of the Advance Planning and Compassionate Care Act strengthens the previously enacted Patient Self Determination Act in the following ways.

First, it requires that every Medicare beneficiary have the opportunity to discuss health care decisionmaking issues with an appropriately trained professional, when he or she makes a request. This measure would help make sure that patients and their families have the ability to discuss and address concerns and issues relating to their care, including end-of-life care, with a trained professional. Many health care institutions already have teams of providers to address difficult health care decisions and some even mediate among patients, families, and providers. In smaller institutions, social workers, chaplains, nurses, or other trained professional could be made available for consultation.

Second, our bill requires that a person's advance directive be placed in a prominent part of the medical record. Often advance directives can not even be found in the medical record, making it more difficult for providers to respect patients' wishes. It is essential that an individual's advance directive be readily available and visible to anyone involved in their health care.

Third, it will assure that an advance directive valid in one State will be valid in another State. At present, portability of advance directives from State to State is not assured. Such portability can only be guaranteed through Federal legislation.

The second part of our bill directs the Secretary of Health and Human Services to advise Congress on an approach to adopting the provisions of the Uniform Health Care Decisions Act for Medicare beneficiaries. The Uniform Health Care Decisions Act was developed by the Uniform Law Commissioners, a group with representation from all States that has been in existence for over 100 years. The Uniform Health Care Decisions Act includes all the important components of model advance directive legislation. A great deal of legal effort went into its development, with input by all the States and approval by the American Bar Association. Medicare beneficiaries deserve a uniform approach to advance directives, especially since many move from one State to another while in the Medicare Program. The tremendous variation in State laws that currently exists only adds to the confusion of health care professionals and their patients.

Just this month, a study done by Dr. Jack Wennberg at Dartmouth University documented the tremendous variation that exists in the medical care that Medicare beneficiaries receive in the last few months of their lives. This sort of analysis highlights that patient preferences have little to do with the sort of care patients receive in their final months of life. Where you live determines the sort of medical care you will receive more so than what you might prefer.

The third part of this legislation would encourage the development of models for end-of-life care for Medicare beneficiaries who do not qualify for the Medicare hospice benefit but still have chronic, debilitating and ultimately fatal illnesses. The tremendous advances in medicine and medical technology over the past 30 to 50 years have resulted in a greatly lengthened life expectancy for Americans, as well as vastly improved functioning and quality of life for the elderly and those with chronic disease. Many of these advances have been made possible by federally financed health care programs, such as the Medicare Program that assures access to high quality health care for all elderly Americans. Medicare has also funded much of the development of technology and a highly skilled physician workforce through support of medical education and academic medical centers. These advances have also created major dilemmas in addressing terminal or potentially terminal disease, as well as a sense of loss of control by many with terminal illness.

I believe it is time for Medicare to help seniors have access to compassionate, supportive, and pain free care during prolonged illnesses and at the end of life. As we begin to discuss restructuring the Medicare Program for the long term, this will be one of my primary goals. Our legislation instructs the Department of Health and Human Services to develop appropriate quality measures and models of care for persons with chronic, debilitating disease, including the very frail elderly who will comprise an increasing number of Medicare beneficiaries. Our bill also sets up a consumer hotline that can provide the American public with information on the legal, medical, and ethical issues related to advance directives and medical decisionmaking.

Mr. President, I am learning more and more about the importance of educating health care providers and the public that chronic, debilitating, terminal disease need not be associated with pain, major discomfort, and loss of control. We can control pain and treat depression, as well as the other causes of suffering during the dying process. We must now apply this knowledge to assure all Americans appropriate end-of-life care. And to make sure that Medicare beneficiaries are able to receive the most effective medicine to control their pain, Medicare's coverage rules would be expanded under our bill to include coverage for self-administered pain medications.

Under current law, Medicare generally does not pay for any outpatient prescription drugs. The only pain medication paid for by the Medicare Program are those drugs that are administered by a portable pump. The pump is covered by Medicare as durable medical equipment and the drugs used with that pump are also covered. Our bill would expand coverage to include self-administered pain medications, for example oral drugs or transdermal patches. These alternatives are as effective in pain relief and, most obviously, a much more comfortable way for patients to receive their pain medication.

Mr. President, much also needs to be done to assure that all health care providers have the appropriate training to use what is already known about supportive care. The public must be educated and empowered to discuss these issues with family members as well as their own physicians so that each individual's wishes can be respected. More research is needed to develop appropriate measures of quality end-of-life care and incorporate these measures into medical practice in all health care settings. And finally, appropriate financial incentives must be present within Medicare, especially, to allow the elderly and disabled their choice of appropriate care at the end of life. Medicare's coverage policy should not be the sole determinate of the route that pain medication is administered.

To conclude, I am proud to offer this legislation with Senator COLLINS. We hope consideration of this bill will be an opportunity to take notice of the many constructive steps that can be taken to address the needs of patients and family members grappling with great pain and medical difficulties. During this time when physician assisted suicide obtains so many headlines, we are eager to call on Congress to turn to the alternative ways of providing help and relief to seniors and other Americans who only are interested in such alternatives.

I ask unanimous consent that a summary and a copy of the bill be printed in its entirety in the RECORD.

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

S. 1345

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Advance Planning and Compassionate Care Act of 1997''.

SEC. 2. EXPANSION OF ADVANCE DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) (as amended by section 4641 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 487)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting ''and if presented by the individual, to include the content of such advance directive in a prominent part of such record'' before the semicolon;

(B) in subparagraph (D), by striking ''and'' at the end;

(C) in subparagraph (E), by striking the period and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.''; and

(2) by adding at the end the following:

''(4)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider of services or a prepaid or eligible organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

''(B) Nothing in this paragraph shall be construed to authorize the administration, withholding, or withdrawal of health care unless it is consistent with the laws of the State in which an advance directive is presented.

''(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''in the individual's medical record'' and inserting ''in a prominent part of the individual's current medical record''; and

(ii) by inserting ''and if presented by the individual, to include the content of such advance directive in a prominent part of such record'' before the semicolon;

(B) in subparagraph (D), by striking ''and'' at the end;

(C) in subparagraph (E), by striking the period and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.''; and

(2) by adding at the end the following:

''(5)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider or organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

''(B) Nothing in this paragraph shall be construed to authorize the administration, withholding, or withdrawal of health care otherwise prohibited by the laws of the State in which an advance directive is presented.

''(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to provider agreements entered into, renewed, or extended under title XVIII of the Social Security Act, and to State plans under title XIX of such Act, on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary of Health and Human Services specifies.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 3. STUDY AND RECOMMENDATIONS TO CONGRESS ON ISSUES RELATING TO ADVANCE DIRECTIVE EXPANSION.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a thorough study regarding the implementation of the amendments made by section 2 of this Act.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed statement of the findings and conclusions of the Secretary regarding the study conducted pursuant to subsection (a), together with the Secretary's recommendations for such legislation and administrative actions as the Secretary considers appropriate.

SEC. 4. STUDY AND LEGISLATIVE PROPOSAL TO CONGRESS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a thorough study of all matters relating to the creation of a national, uniform policy on advance directives for individuals receiving items and services under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.).

(2) MATTERS STUDIED.—The matters studied by the Secretary of Health and Human Services shall include issues concerning—

(A) the election or refusal of life-sustaining treatment;

(B) the provision of adequate palliative care including pain management;

(C) the portability of advance directives, including the cases involving the transfer of an individual from one health care setting to another;

(D) immunity for health care providers that follow the instructions in an individual's advance directive;

(E) exemptions for health care providers from following the instructions in an individual's advance directive;

(F) conditions under which an advance directive is operative;

(G) revocation of an advance directive by an individual;

(H) the criteria for determining that an individual is in terminal status; and

(I) surrogate decision making regarding end of life care.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed description of the results of the study conducted pursuant to subsection (a).

(c) CONSULTATION.—In conducting the study and developing the report under this section, the Secretary of Health and Human Services shall consult with physicians and other health care provider groups, consumer groups, the Uniform Law Commissioners, and other interested parties.

SEC. 5. DEVELOPMENT OF STANDARDS TO ASSESS END-OF-LIFE CARE.

The Secretary of Health and Human Services, through the Administrator of the Health Care Financing Administration, the Director of the National Institutes of Health, and the Administrator of the Agency for Health Care Policy and Research, shall develop outcome standards and measures to evaluate the performance of health care programs and projects that provide end-of-life care to individuals and the quality of such care.

SEC. 6. NATIONAL INFORMATION HOTLINE FOR END-OF-LIFE DECISIONMAKING.

The Secretary of Health and Human Services, through the Administrator of the Health Care Financing Administration, shall establish and operate directly, or by grant, contract, or interagency agreement, out of funds otherwise appropriated to the Secretary, a clearinghouse and 24-hour toll-free telephone hotline, to provide consumer information about advance directives, as defined in section 1866(f)(3) of the Social Security Act (42 U.S.C. 1395cc(f)(3)), and end-of-life decisionmaking.

SEC. 7. EVALUATION OF AND DEMONSTRATION PROJECTS FOR INNOVATIVE AND NEW APPROACHES TO END-OF-LIFE CARE FOR MEDICARE BENEFICIARIES.

(a) DEFINITIONS.—In this section:

(1) MEDICARE BENEFICIARIES.—The term ''medicare beneficiaries'' means individuals who are entitled to benefits under part A or eligible for benefits under part B of the medicare program.

(2) MEDICARE PROGRAM.—The term ''medicare program'' means the health care program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) EVALUATION OF EXISTING PROGRAMS.—

(1) IN GENERAL.—The Secretary, through the Administrator of the Health Care Financing Administration, shall conduct ongoing evaluations of innovative health care programs that provide end-of-life care to medicare beneficiaries who are seriously ill or who suffer from a medical condition that is likely to be fatal.

(2) REQUIREMENTS.—Evaluations conducted under this subsection shall include the following:

(A) Evidence that the evaluated program implements practices or procedures that result in improved patient outcomes, resource utilization, or both.

(B) A definition of the population served by the program and a determination as to how accurately that population reflects the total medicare beneficiaries in the area who are in need of services offered by the program.

(C) A description of the eligibility requirements and enrollment procedures for the program.

(D) A detailed description of the services provided to medicare beneficiaries served by the program and the utilization rates for such services.

(E) A description of the structure for the provision of specific services.

(F) A detailed accounting of the costs of providing specific services under the program.

(G) A description of any procedures for offering medicare beneficiaries a choice of services and how the program responds to the preferences of the medicare beneficiaries served by the program.

(H) An assessment of the quality of care and of the outcomes for medicare beneficiaries and the families of such beneficiaries served by the program.

(I) An assessment of any ethical, cultural, or legal concerns regarding the evaluated program and with the replication of such program in other settings.

(J) Identification of any changes to regulations, or of any additional funding, that would result in more efficient procedures or improved outcomes, for the program.

(3) EXTERNAL EVALUATORS.—The Secretary shall contract with 1 or more external evaluators to coordinate and conduct the evaluations required under this subsection and under subsection (c)(4).

(4) USE OF OUTCOME MEASURES AND STANDARDS.—An evaluation conducted under this subsection and subsection (c)(4) shall use the outcome standards and measures required to be developed under section 5 as soon as those standards and measures are available.

(c) DEMONSTRATION PROJECTS.—

(1) AUTHORITY.—The Secretary, through the Administrator of the Health Care Financing Administration, shall conduct demonstration projects to develop new and innovative approaches to providing end-of-life care to medicare beneficiaries who are seriously ill or who suffer from a medical condition that is likely to be fatal.

(2) APPLICATION.—Any entity seeking to conduct a demonstration project under this subsection shall submit to the Secretary an application in such form and manner as the Secretary may require.

(3) SELECTION CRITERIA.—

(A) IN GENERAL.—In selecting entities to conduct demonstration projects under this subsection, the Secretary shall select entities that will allow for demonstration projects to be conducted in a variety of States, in an array of care settings, and that reflect—

(i) a balance between urban and rural settings;

(ii) cultural diversity; and

(iii) various modes of medical care and insurance, such as fee-for-service, preferred provider organizations, health maintenance organizations, hospice care, home care services, long-term care, and integrated delivery systems.

(B) PREFERENCES.—The Secretary shall give preference to applications for demonstration projects that—

(i) will serve medicare beneficiaries who are dying of illnesses that are most prevalent under the medicare program, including cancer, heart failure, chronic obstructive respiratory disease, dementia, stroke, and progressive multifactorial frailty associated with advanced age; and

(ii) appear capable of sustained service and broad replication at a reasonable cost within commonly available organizational structures.

(4) EVALUATIONS.—Each demonstration project conducted under this subsection shall be evaluated at such regular intervals as the Secretary determines are appropriate. An evaluation of a project conducted under this subsection shall include the items described in subsection (b)(2) and the following:

(A) A comparison of the quality of care and of the outcomes for medicare beneficiaries and the families of such beneficiaries served by the demonstration project to the quality of care and outcomes for such individuals that would have resulted if care had been provided under existing delivery systems.

(B) An analysis of how ongoing measures of quality and accountability for improvement and excellence could be incorporated into the demonstration project.

(C) A comparison of the costs of the care provided to medicare beneficiaries under the demonstration project to the costs of that care if it had been provided under the medicare program.

(5) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) which, if applied, would prevent a demonstration project carried out under this subsection from effectively achieving the purpose of such a project.

(d) ANNUAL REPORTS TO CONGRESS.—

(1) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the quality of end-of-life care under the medicare program, together with any suggestions for legislation to improve the quality of such care under that program.

(2) SUMMARY OF RECENT STUDIES.—A report submitted under this subsection shall include a summary of any recent studies and advice from experts in the health care field regarding the ethical, cultural, and legal issues that may arise when attempting to improve the health care system to meet the needs of individuals with serious and eventually fatal illnesses.

(3) CONTINUATION OR REPLICATION OF DEMONSTRATION PROJECTS.—Beginning 3 years after the date of enactment of this Act, the report required under this subsection shall include recommendations regarding whether the demonstration projects conducted under subsection (c) should be continued and whether broad replication of any of those projects should be initiated.

(e) FUNDING.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) of such sums as are necessary for the costs of conducting evaluations under subsection (b), conducting demonstration projects under subsection (c), and preparing and submitting the annual reports required under subsection (d). Amounts may be transferred under the preceding sentence without regard to amounts appropriated in advance in appropriations Acts.

SEC. 8. MEDICARE COVERAGE OF SELF-ADMINISTERED MEDICATION FOR CERTAIN PATIENTS WITH CHRONIC PAIN.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) (as amended by section 4557 of the Balanced Budget Act (Public Law 105–33; 111 Stat. 463)) is amended—

(1) by striking ''and'' at the end of subparagraph (S);

(2) in subparagraph (T), by striking the period at the end and inserting ''; and''; and

(3) by inserting after subparagraph (T) the following:

''(U) self-administered drugs which may be dispensed only upon prescription and which are prescribed for the relief of chronic pain in patients with a life-threatening disease or condition;''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after June 1, 1998.

ADVANCE PLANNING AND COMPASSIONATE CARE ACT OF 1997—SUMMARY

More than 70 percent of the 2 million Americans expected to die this year will be over the age of 65. The Medicare and Medicaid programs pay for the majority of care at the end of life. Dr. Jack Wennberg, health researcher at Dartmouth University, recently documented the tremendous geographic variation that exists in end of life care provided to Medicare beneficiaries. The type of medical care a patient received in their last month of life was driven more by where a person lived than by personal preferences.

(1) BETTER INFORMATION AND COUNSELING

Current law: This bill builds on federal legislation (Patient Self-Determination Act) enacted in 1990 that requires health care facilities to distribute information on advance directives to their patients. Since passage of that legislation, there has been an increase in the number of individuals who have an advance directive but a recent Robert Wood Johnson study found that while 20 percent of hospitalized patients had an advance directive less than half had ever talked with any of their doctors about having a directive and only about one-third had their wishes documented in their medical record. Many people do not understand the importance of discussing their advance directives with family members and their health care provider. In addition, a 1994 survey found that only 5 out of 126 medical schools offered a separate, required course in end of life care. Other surveys of doctors and medical residents found little or no experience in discussing care for dying patients.

Proposal: Improves the type and amount of information available to consumers by making sure that when a person enters a hospital, nursing home, or other health care facility, there is a knowledgeable person available to discuss end of life care planning if requested, so that good decisions—decisions based on the patient's own needs and values—can be made. Requires that if a person has an advance directive it must be placed in a prominent part of the medical record where all the doctors and nurses can clearly see it. Establishes a 24-hour hotline and information clearinghouse to provide consumers with information on end of life decision making.

(2) PORTABILITY OF ADVANCE DIRECTIVES

Current law: The specifics of advance directive legislation vary greatly from state to state. Portability from state to state can only be assured through federal legislation.

Proposal: Ensures that an advance directive valid in one state will be honored in another state, as long as the contents of the advance directive do not conflict with the laws of the state. In addition, requires the Secretary of Health and Human Services to gather information and consult with experts on the possibility of an uniform advance directive for all Medicare beneficiaries, regardless of where they live. An uniform advance directive would enable people to document the kind of care they wish to get at the end of their lives in a way that is easily recognizable and understood by everyone.

(3) MEASURES TO IMPROVE THE QUALITY OF END OF LIFE CARE

Current Law: There are few quality measures or standards available to assess the quality of care provided to Medicare beneficiaries at the end of their life. The tremendous geographic variation in medical care that currently exists on end of life care reinforces the notion that most people do not receive care driven by quality concerns but rather by the availability of medical resources in the community and other factors not related to quality care.

Proposal: Requires the Secretary of Health and Human Services, in conjunction with the Health Care Financing Administration, National Institutes of Health, and the Agency for Health Care Policy and Research, to develop outcome standards and other measures to evaluate the quality care provided to dying patients.

(4) PILOT PROJECT FUNDING TO IMPROVE END OF LIFE CARE SERVICES

Current Law: The only Medicare benefit aimed at improving end of life care for Medicare beneficiaries is hospice care which only serves a small minority of beneficiaries. In 1994, the Medicare hospice benefit was provided to 340,000 dying patients for the last few weeks of their lives. The hospice benefit is limited to beneficiaries who have a terminal illness with a life expectancy of 6 months or less. Cancer and AIDS are virtually the only diseases that follow a predictable course of decline near death. Cancer patients are usually referred to hospice care when the individual's functioning declines, usually 3–6 weeks before death. Medicare beneficiaries with other diseases generally do not have access to hospice care because the 6 month life expectancy requirement is often difficult to determine.

A review of studies done by an Institute of Medicine study panel found that 40 to 80 percent of patients with a terminal illness were inadequately treated for pain ''despite the availability of effective pharmacological and other options for relieving pain.''

Proposal: Provides funding for demonstration projects to develop new and innovative approaches to improving end of life care provided to Medicare beneficiaries, in particular those individuals who do not qualify for, or select, hospice care. Also, includes funding to evaluate existing pilot programs that are providing innovative approaches to end of life care.

(5) IMPROVED COVERAGE OF PAIN MEDICATIONS

Current Law: With a few exceptions, Medicare does not generally pay the cost of self-administered drugs prescribed for outpatient use. The only outpatient pain medications currently covered by Medicare are those that are administered by a portable pump. The pump is covered by Medicare as durable medical equipment, and the drugs associated with that pump are also covered. It is widely recognized among physicians treating patients with cancer and other life-threatening diseases that self-administered pain medications, including oral drug and transdermal patches, offer alternatives that are equally effective at controlling pain, more comfortable for the patient, and much less costly than the pump.

Proposal: Requires Medicare coverage for self-administered pain medications prescribed for outpatient use for patients with life-threatening disease and chronic pain.

Ms. COLLINS. Mr. President, I am pleased to be joining my colleague from West Virginia, Senator ROCKEFELLER, in introducing the Advance Planning and Compassionate Care Act which is intended to improve the way we care for people at the end of their lives.

Noted health economist Uwe Reinhardt once observed that ''Americans are the only people on earth who believe that death is negotiable.'' Advancements in medicine, public health, and technology have enabled more and more of us to live longer and healthier lives. However, when medical treatment can no longer promise a continuation of life, patients and their families should not have to fear that the process of dying will be marked by preventable pain, avoidable distress, or care that is inconsistent with their values or wishes.

The fact is, dying is a universal experience, and it is time to reexamine how we approach death and dying and how we care for people at the end of their lives. Clearly there is more that we can do to relieve suffering, respect personal choice and dignity, and provide opportunities for people to find meaning and comfort at life's conclusion.

Unfortunately, most Medicare patients and their physicians do not currently discuss death or routinely make advance plans for end-of-life care. As a result, about one-fourth of Medicare funds are now spent on care at the end of life that is geared toward expensive, high-technology interventions and rescue care. While four out of five Americans say they would prefer to die at home, studies show that almost 80 percent die in institutions where they may be in pain, and where they are subjected to high-technology treatments that merely prolong suffering.

Moreover, according to a Dartmouth study released earlier this month, where a patient lives has a direct impact on how that patient dies. The study found that the amount of medical treatment Americans receive in their final months varies tremendously in the different parts of the country, and it concluded that the determination of whether or not an older patient dies in the hospital probably has more to do with the supply of hospital beds than the patient's needs or preference.

The Advance Planning and Compassionate Care Act is intended to help us improve the way our health care system serves patients at the end of their lives. Among other provisions, the bill makes a number of changes to the Patient Self-Determination Act of 1990 to facilitate appropriate discussions and individual autonomy in making difficult discussions about end-of-life care. For instance, the legislation requires that every Medicare beneficiary receiving care in a hospital or nursing facility be given the opportunity to discuss end-of-life care and the preparation of an advanced directive with an appropriately trained professional within the institution. The legislation also requires that if a patient has an advanced directive, it must be displayed in a prominent place in the medical record so that all the doctors and nurses can clearly see it.

The legislation will expand access to effective and appropriate pain medications for Medicare beneficiaries at the end of their lives. Severe pain, including breakthrough pain that defies usual methods of pain control, is one of the most debilitating aspects of terminal illness. However, the only pain medication currently covered by Medicare in an outpatient setting is that which is administered by a portable pump.

It is widely recognized among physicians treating patients with cancer and other life-threatening diseases that self-administered pain medications, including oral drugs and transdermal patches, offer alternatives that are equally effective in controlling pain, more comfortable for the patient, and much less costly than the pump. Therefore, the Advance Planning and Compassionate Care Act would expand Medicare to cover self-administered pain medications prescribed for the relief of chronic pain in life-threatening diseases or conditions.

In addition, the legislation authorizes the Department of Health and Human Services to study end-of-life issues for Medicare and Medicaid patients and also to develop demonstration projects to develop models for end-of-life care for Medicare beneficiaries who do not qualify for the hospice benefit, but who still have chronic debilitating and ultimately fatal illnesses. Currently, in order for a Medicare beneficiary to qualify for the hospice benefit, a physician must document that the person has a life expectancy of 6 months or less. With some conditions—like congestive heart failure—it is difficult to project life expectancy with any certainty. However, these patients still need hospice-like services, including advance planning, support services, symptom management, and other services that are not currently available.

Finally, the legislation establishes a telephone hotline to provide consumer information and advice concerning advance directives, end-of-life issues and medical decisionmaking and directs the Agency for Health Care Policy and Research to develop a research agenda for the development of quality measures for end-of-life care.

The legislation we are introducing today is particularly important in light of the current debate on physician-assisted suicide. As the Bangor Daily News pointed out in an editorial published earlier this year, the desire for assisted suicide is generally driven by concerns about the quality of care for the terminally ill; by the fear of prolonged pain, loss of dignity, and emotional strain on family members. Such worries would recede and support for assisted suicide would evaporate if better palliative care and more effective pain management were widely available, and I ask unanimous consent that this editorial be included in the RECORD.

Mr. President, patients and their families should be able to trust that the care they receive at the end of their lives is not only of high quality,

but also that it respects their desires for peace, autonomy, and dignity. The Advanced Planning and Compassionate Care Act that Senator ROCKEFELLER and I are introducing today will give us some of the tools that we need to improve care of the dying in this country, and I urge all of my colleagues to join us as cosponsors.

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

LIFE AND DEATH WITH DIGNITY

When Maine legislators consider a bill this session on physician-assisted suicide, they will face a question that the nation's medical community has been unable to settle after long debate. Legislators should respect the enormity of what they are being asked to consider, recognizing that there are many steps between the current state of caring for the terminally ill and hastening their deaths.

Even as the Supreme Court last week was considering constitutional questions surrounding doctor-assisted suicide, a coalition of 40 health care, religious and retiree groups gathered in Washington to find a middle ground to this debate. The coalition—including the American Medical Association, the American Association of Retired Persons, B'nai B'rith and the American Cancer Society—argues that the desire for assisted suicide often is driven by concerns about the quality of care for the terminally ill. Thoughts of doctor-assisted suicide, these groups maintain, are brought about by the fear of prolonged pain, loss of dignity and the emotional strain on family members, among other reasons.

The coalition suggests that the nation's medical system has failed to meet the physical and emotional needs of dying patients. One study from Memorial Sloan-Kettering in New York estimated that 1.6 million terminally ill people a year would be good candidates for hospice care but only about 350,000 receive it. Why not try to solve these problems before codifying doctor-assisted suicide?

The Maine legislation, called the Death With Dignity Act, is narrowly drawn, based on legislative work on a similar bill from last session. It would allow physicians to assist in the suicide of a terminally ill person who makes three oral and one written request to die and has satisfied a counselor that he or she is capable of making the decision. The act goes to some lengths to prevent coercion and to allow the person to back out of the suicide. It is well-crafted and sensitive legislation. But absent advances in the quality of care for the terminally ill, it also may be premature.

And despite the safeguards, doubts about who will be allowed to pursue this process remain. In a friend-of-the-court brief addressed to the cases being considered by the Supreme Court, the America Geriatric Society explains the source of some of these doubts: ''The image of an independent, capable person thoughtfully evaluating his or her options, unaffected by biased third parties or other circumstances . . . is so far from the experience of dying as to be fanciful. Dying persons are often very weak, prone to strong emotions and vulnerable to the suggestions, expectations and guidance of others.''

The medical community has developed wondrous means for keeping bodies functioning long beyond what could have been expected even a few years ago, perhaps even longer than is desirable. The debate over assisted suicide in state after state demands that physicians go beyond that now in respecting the humanity and mortality that resides within those bodies by providing the terminally ill with the opportunity for less painful, more dignified deaths.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 1346. A bill to amend title 18, United States Code, to increase the penalties for certain offenses in which the victim is a child; to the Committee on the Judiciary.

JOAN'S LAW ACT OF 1997

Mr. TORRICELLI. Mr. President, I am introducing this bill today, along with my colleague from New Jersey Senator LAUTENBERG, on behalf of Rosemarie D'Alessandro, the mother of a young girl murdered some 24 years ago in New Jersey.

Mrs. D'Alessandro's 7-year-old daughter Joan was delivering Girl Scout cookies down the street from her Hillsdale home one day when Joseph McGowan, a high school chemistry teacher, destroyed her life and changed the lives of her family members forever. McGowan raped Joan, killed her, and dumped her broken, battered body in a ravine some 15 miles away—she was not found for 3 full days.

For Joan's mom, Rosemarie, that shattering event was only the beginning of what would become a literal lifetime of trauma, pain and distress. Although the man who murdered Joan was put away for life, he has already had two parole hearings and is scheduled for another in 2003.

And Rosemarie D'Alessandro cannot rest while these hearings go on. To make sure this murderer remains behind bars, Rosemarie must fight each and every day against the system that might free him, and must sit through appeal after appeal when he is denied release.

But rather than becoming consumed with the tragedy that stole her daughter from her, Rosemarie D'Alessandro has used her grief and her anger to accomplish an astonishing goal—Joan's Law is now in the books in New Jersey, and now any child molester who murders a child under 14 in my State must receive life in prison without the possibility of parole. Rosemarie D'Alessandro stood up and told the world ''enough is enough.'' No other family should have to bear the double tragedy of suffering the loss of a child and then being forced to relive it over and over again through parole hearings and appeals. And no other family in New Jersey will ever have to again.

Well, we do not have parole in the Federal system, but we can make sure that anyone who molests or commits a serious, violent crime against a child 14 or under will serve the rest of his life behind bars if that child dies. My bill states that any person who is convicted of a Federal offense defined as a serious violent felony should be sentenced either to death or imprisonment for life when the victim of the crime is under 14 years of age and dies as a result of the offense.

Mr. President, with this bill, we intend to send the strongest possible message to anyone who would dare molest or attack a vulnerable child—do so at your own risk, because we will find you and we will put you behind bars for the rest of your life if that child dies. I hope my colleagues will quickly join me and Senator LAUTENBERG in passing this legislation, so that the inevitable tragedies that happen to children throughout America every day will no longer be compounded upon the families of those victims.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1346

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

SECTION 1. SHORT TITLE.

This act may be cited as the ''Joan's Law Act of 1997''.

SEC. 2. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

''(d) DEATH OR LIFE IMPRISONMENT FOR CRIMES AGAINST CHILDREN.—Notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2251 shall, unless a sentence of death is imposed, be sentenced to imprisonment for life, if the victim of the offense—

''(1) is less than 14 years of age at the time of the offense; and

''(2) dies as a result of the offense.''.

Mr. LAUTENBERG. Mr. President, when a child is murdered, families are devastated and communities are rocked to their very core. When a murderer is prosecuted, grieving parents and siblings are forced to relive the often brutal details of the most profound tragedy imaginable. And, if a conviction is obtained, in too many instances, the families of a young victim must repeatedly relieve the crime every time the murderer goes before a parole board.

The families of murder victims, especially murdered children, need closure. They need to know that they can put the horror and a tragedy behind them. They need to know that they can begin rebuilding their lives. But most importantly, they need to know that the person responsible for the crime will never bring harm and grief to another family.

This is why, Mr. President, I am today joining my colleague from New Jersey, Senator TORRICELLI, in introducing legislation that will significantly increase the penalties on criminals convicted of a Federal crime where a child under the age of 14 is killed during the commission of that crime. I also want to commend and acknowledge Congressman BOB FRANKS, also from New Jersey, who introduced similar legislation in the House.

Mr. President, this legislation is a Federal companion for an important New Jersey law called Joan's Law.

Joan's Law was named after a 7-year-old New Jersey girl, Joan D'Alessandro, who was raped and murdered in 1973. Joan's murderer, a man who lived across State lines and actually had the gall to participate in the family's desperate search for their missing daughter, was located, convicted of the crime, and sentenced to 20 years in State prison. He is now eligible for parole, and has twice sought release since his incarceration.

To their horror, frustration, and understandable anger, Joan's family has repeatedly had to fight parole for this cruel killer. They have been forced to relive this tragedy again and again and to beg that others be protected from the brutal individual who ripped apart their family.

The bill we are introducing today will impose a similar, equally severe and necessary penalty—life imprisonment—on anyone convicted of committing a Federal crime where a child, 14 years of age or younger, dies as a result of that crime.

The bill sends a strong message that our society will not tolerate nor forgive the brutal acts of a criminal who takes a young life. This bill sends the message in no uncertain terms that society will take the steps necessary to protect itself from cold-blooded killers who victimize children. This bill will help to protect all of our families and children from the repeat offenders who, all too often, insinuate themselves into our communities and prey on defenseless children.

Mr. President, I urge all of my colleagues to join with Senator TORRICELLI and I in support of this bill and to work for its fast enactment.

By Mr. GLENN:

S. 1347. A bill to permit the city of Cleveland, OH, to convey certain lands that the United States conveyed to the city; to the Committee on Commerce, Science, and Transportation.

THE CLEVELAND AIRPORT EXPANSION ACT OF 1997

Mr. GLENN. Mr. President, I am pleased to introduce legislation to assist in improving air transportation for the people and businesses of northeast Ohio and the Nation.

The city of Cleveland has a major capacity improvement program underway at Cleveland Hopkins International Airport. For some time, Cleveland and the city of Brook Park had been involved in a dispute regarding property crucial to the development project. To their credit, both communities were able to resolve their differences through a comprehensive settlement agreement that will allow the airport's improvement program to move forward. This important settlement agreement includes changing municipal boundaries and the noncontroversial, jurisdictional transfer of property.

Mr. President, Congress has addressed similar restrictions many times by enacting specific provisions allowing the Secretary of Transportation to act in similar cases. As part of the comprehensive settlement agreement this is clearly in the public interest and will allow Cleveland to meet northeast Ohio's increasing requirements for better air transportation.

Mr. President, since the closing of the settlement agreement is to occur before December 31, 1997, this legislation is needed prior to adjournment. I appreciate the support of the leadership of the Committee on Commerce, Science, and Transportation, and I urge my colleagues to support this legislation.

By Mr. LIEBERMAN (for himself, Mr. DASCHLE, Mr. MOYNIHAN, and Mr. KERREY):

S. 1348. A bill to provide for innovative strategies for achieving superior environmental performance, and for other purposes; to the Committee on Environment and Public Works.

THE INNOVATIVE ENVIRONMENTAL STRATEGIES ACT OF 1997

Mr. LIEBERMAN. Mr. President, I am pleased to introduce today The Innovative Environmental Strategies Act of 1997. I'm honored that Senators DASCHLE, MOYNIHAN, and KERREY have joined me as cosponsors, and that the legislation is being introduced in the House by Congressman DOOLEY and Congresswoman TAUSCHER. I'm also very pleased that the legislation has been endorsed by the Clinton administration and has received positive responses from representatives of industry and environmental groups. I look forward to a process of building further consensus on this bill from all affected interests.

The legislation allows companies to propose alternatives to environmental requirements if those alternative proposals will achieve better environmental performance. The legislation provides EPA with the authority to waive or modify regulatory requirements for this purpose. It is designed to encourage more pollution prevention and to promote better, more cost-effective solutions for environmental protection.

This legislation seeks to build on both the work of President Clinton's Project XL—standing for excellence and leadership—and the Aspen Institute which undertook a 3-year effort to reach consensus among a wide group of divergent interests on an alternative path to achieving a cleaner, cheaper way to protect and enhance the environment. The Aspen Institute's work resulted in an excellent report, ''The Alternative Path, A Cleaner, Cheaper Way to Protect and Enhance the Environment.''

This bill modifies legislation introduced at the end of last Congress. At that time, I indicated that I welcomed all proposals and suggestions on how to alter and improve the bill. I have received a significant number of comments from industry, governmental and environmental group representatives. The new bill attempts to reflect many of those comments, in addition to a new GAO report examining EPA's reinvention efforts, ''Challenges Facing EPA's Efforts to Reinvent Environmental Regulation,'' and a recently released report by the National Academy of Public Administration, ''Resolving the Paradox of Environmental Protection.'' The National Academy report recommends statutory authorization for EPA's XL program.

There is clearly a wide consensus in this country that our environmental laws have performed remarkably well. As the writer Gregg Easterbrook has pointed out, environmental protection is probably the single greatest success story of American government in the period since World War II.

In many cases, however, we need to do more to provide the level of protection most Americans expect from government. For example, over one third of our rivers and lakes still do not fully meet water quality standards. Health advisories for eating fish have increased. The number of people suffering from asthma has reached epidemic proportions in some communities, particularly among children.

Pollution prevention—preventing pollution before it occurs—is one approach that can help us do both better both in terms of protecting the environment and actually saving companies money. The greater efficiency resulting from less waste disposal and reduced use of toxic chemicals can significantly bolster the competitiveness of companies.

Recently, I listened to a presentation indicating that perhaps the Nation is not doing as well in pollution prevention as we should be. A 1995 report by the research group INFORM, ''Toxics Watch 1995,'' reviewed thousands of documents submitted by industry to EPA to show whether progress was made to further pollution prevention. While 25 percent of the forms indicated some effort in pollution prevention had been made, the remaining 75 percent gave no such indication. And, according to INFORM, while some leading companies have taken major pollution prevention steps, the broader picture is troublesome: total waste generation is increasing.

While these facts show there is clearly a need to improve protection of our environment and pollution prevention, there is just as clearly a need to review our methods of environmental protection in order to find better, more efficient, more innovative ways to achieve greater progress toward meeting our environmental goals. In some cases, the traditional approaches to regulation have hindered companies from doing a better job at pollution prevention.

There is a growing consensus that innovative environmental strategies can form the basis for a new approach to environmental protection that will

achieve superior environmental results, including greater pollution prevention, at less cost for regulated industry. This consensus can be seen, for example, in the work of the President's Council on Sustainable Development which brought together leaders from government, environmental, civil rights, labor and native American organizations in an effort to achieve consensus on national environmental, economic and social goals, as well as in the work of the Aspen Institute.

This bill establishes an innovative environmental strategies program at EPA. The Administrator of EPA is authorized to enter into approximately 50 agreements with regulated entities seeking modifications or waivers from environmental requirements if certain criteria are met. The basic premise of the bill is that better environmental performance can be achieved by allowing environmental managers at companies, in partnership with an active group of community stakeholders, to develop their own means of reaching environmental goals. This approach recognizes that the regulated industry is now in an excellent position to experiment and decide what approaches will yield better environmental results than the company is achieving under existing regulations. Allowing flexibility can substantially reduce compliance costs and make industries more competitive, provide for much greater community involvement in the decisions of their neighboring industrial plants, foster more cooperative partnerships, and encourage greater innovation and pollution prevention.

Another key element of this program is incorporating the lessons learned from the innovative environmental strategies into the overall regulatory structure of the Agency, where appropriate.

While the bill authorizes approximately 50 innovative strategy agreements, these individual strategies should have widespread benefits for other companies as the Agency incorporates the lessons learned into its overall approach to environmental protection.

Let me discuss a few specific provisions of the bill.

First, the bill establishes benchmarks from which to determine whether better environmental results will be achieved under the innovative environmental strategy. For existing facilities, the benchmark generally will be either the level of releases of a pollutant into the air, land or water actually being achieved by the facility or the level of releases allowed under the applicable regulatory requirements and reasonably foreseeable future requirements, whichever is lower. The Administrator is given some flexibility in determining the appropriate measurement for the benchmark. For example, measuring releases per unit of production encourages pollution prevention but may result in releases of concern to the community; the Administrator should take both these factors into account in determining whether a per unit measurement is appropriate. The Administrator shall determine whether an innovative environmental strategy achieves better environmental results based on the magnitude of reduction in the level of releases or improvement in pollution prevention relative to each benchmark. In addition, the Administrator shall evaluate other benefits that would result from the strategy. These include whether the strategy results in environmental performance more protective than the best performance practice of comparable facilities or improvement in environmental conditions that are priorities to stakeholders, even if those conditions are not regulated under EPA statutes.

Different types of innovative environmental strategies are possible under this legislation. For example, in some cases, a facility may demonstrate better environmental results by showing a reduction in releases of pollutants and, in exchange, seek a modification of reporting or other paperwork requirements. In other cases, a facility may demonstrate better environmental results by showing a reduction in releases of pollutants, but seek modification of a rule to allow for flexibility with respect to emission levels at different sources within the facility. There may be some cases where the innovative environmental strategy would result in large decreases in some pollutants while resulting in a small increase in another pollutant. But there are a number of specific requirements that must be met under those circumstances. Among other requirements, the Administrator must determine, based on a well-established analytic methodology acceptable both to the Administrator and the stakeholders, that the strategy will achieve better overall environmental results with an adequate margin of safety and will not result in an increase in the risk of adverse effects or shift the risk of adverse effects to the health of an individual, population, or natural resource affected by the strategy. I recognize that it is difficult to make such determinations because we have inadequate information about many chemicals and we often do not know how properly to evaluate cumulative or synergistic effects. The Administrator should pay close attention to these factors in evaluating projects. These examples are only illustrative of a range of potential projects.

The bill also provides that in appropriate cases, the Administrator may establish a benchmark for measuring better environmental performance based on pollution prevention.

The bill requires that the innovative environmental strategy provide a means and level of accountability, monitoring, enforceability and public access to information for all enforceable provisions at least equivalent to that provided by the rule that is being modified or waived. A related requirement is that adequate information must be made accessible so that any member of the public can verify environmental performance. Other requirements that must be met by the petitioner are set forth in section 7.

Effective stakeholder participation is the second key element of the legislation. Any company submitting a proposal must undertake a stakeholder participation process. One of the criteria for approval of a project by EPA is that the stakeholders have obtained adequate independent technical support for an effective stakeholder process. Under the bill, the stakeholder process is open to anyone, except a business competitor, subject to manageability factors. The stakeholder group should genuinely represent the full range of interests affected by projects and the policies to be shaped by projects. Involving citizens, including workers and members of the local community, in the development of an innovative environmental strategy is absolutely critical. Companies that have formulated successful innovative environmental strategies have told me that without the support of the local community these strategies simply will not work. Empowerment of the local community through stakeholder processes will help build trust and make implementation of the agreement easier. In other words, the innovative environmental strategy should be a partnership between the proponent and the stakeholders.

The bill requires the Administrator to give great weight to the views of the stakeholders. Obtaining broad community support for the strategy, as shown through stakeholder support, is very important. Additionally, the stakeholders and the proponent of the strategy may decide as part of the guidelines setting up the stakeholder process, that the stakeholders as a group or individual stakeholder participants should have a veto right with respect to whether the strategy goes forward. If the proponent still presents a proposal for the strategy even with such objections, the Administrator is required to reject the strategy if the objection has a clear and reasonable foundation and relates to the criteria for approval. The principle here is simple: stakeholders and the facility owner need to come to agreement on the guidelines that will govern the project. This agreement on the guidelines should be reached at the start of the process. It must be followed; if not, the Administrator will not be able to make the finding that the requirements of section 6 of the statute have been met.

The bill also attempts to address the recommendations made in the GAO report of July 1997, ''Challenges Facing EPA's Efforts to Reinvent Environmental Regulation'', which examined EPA's XL program. First, the GAO concludes that EPA will be limited in its ability to truly reinvent environmental regulation without legislative changes. Second, the GAO recommends

that the Agency's reinvention initiatives include an evaluation component measuring the extent to which the initiative has achieved its intended effect. Therefore, the bill requires that, within 18 months after entering into an agreement, the Administrator provide a report evaluating whether the lessons learned from a particular strategy can be incorporated into the overall regulatory or statutory structure of the Agency. The legislation also requires a broader report to Congress within 3 years.

Finally, the GAO proposes that EPA develop a systematic process that would help address problems that come up during reinvention projects in a timely fashion. This process should be set up to identify the kinds of problems that can be resolved at lower levels within the Agency and which should be elevated for management's attention. While the bill does not specifically address this recommendation, I hope that EPA will seriously examine how it can implement this constructive recommendation.

As the GAO report notes, the EPA has undertaken a broad range of reinvention efforts. This legislation in no way affects the ability of EPA to proceed under its appropriate authorities with those efforts, including agreements under XL.

I ask unanimous consent that the full text of the legislation be included in the RECORD.

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

S. 1348

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Innovative Environmental Strategies Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) superior environmental performance can be achieved in some cases by granting regulated entities the flexibility to develop innovative environmental strategies for achieving environmental results in partnership with affected stakeholders;

(2) innovative environmental strategies also have the potential to—

(A) substantially reduce compliance costs;

(B) foster cooperative partnerships among industry, government, public interest groups, and local communities;

(C) encourage regulated entities to meet and exceed environmental obligations through greater innovation and greater pollution prevention; and

(D) increase the involvement of members of the local community and other citizens in decisions relating to the environmental performance goals and priorities of a facility; and

(3) the lessons learned from successful innovative environmental strategies should be incorporated into the broader system of environmental regulation.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AGENCY.—The term ''agency'' means the Environmental Protection Agency.

(3) AGENCY RULE.—

(A) IN GENERAL.—The term ''agency rule'' means a rule (as defined in section 551 of title 5, United States Code) promulgated by the agency.

(B) EXCLUSIONS.—The term ''agency rule'' does not include—

(i) an emissions reduction requirement under title IV of the Clean Air Act (42 U.S.C. 7651 et seq.); or

(ii) a requirement under subtitle B of the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. 11021 et seq.).

(4) PERSON.—The term ''person'' means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, Indian tribe, municipality, commission, political subdivision of a State, interstate body, or department, agency, or instrumentality of the United States.

SEC. 4. INNOVATIVE ENVIRONMENTAL STRATEGY AGREEMENTS.

(a) IN GENERAL.—

(1) PROPOSAL.—A person that owns or operates a facility that is subject to an agency rule, requirement, policy, or practice may submit to the Administrator a proposal for an innovative environmental strategy for achieving better environmental results.

(2) AGREEMENT.—If the Administrator finds that the requirements of section 7 are met and approves the proposed strategy, the Administrator may enter into an innovative environmental strategy agreement with respect to the facility.

(3) CONTENTS.—An agreement under paragraph (1)—

(A) may—

(i) modify or waive otherwise applicable agency rules, requirements, policies, or practices;

(ii) establish new environmental standards for a facility; or

(iii) establish new requirements not contained in existing agency rules or existing environmental statutes;

(B) may not contravene the specific terms of a statute; and

(C) should further the purposes of applicable environmental statutes.

(b) COSPONSOR.—

(1) IN GENERAL.—The Administrator shall establish procedures under which a person other than the owner or operator of a facility may cosponsor a proposal.

(2) PRIORITY.—The Administrator shall give priority to proposals co-sponsored by a stakeholder group.

SEC. 5. SUBMISSION OF PROPOSAL.

(a) CONTENTS OF PROPOSAL.—A proposal for an innovative environmental strategy shall be clearly and concisely written and shall—

(1) identify any agency rule, requirement, policy, or practice for which a modification or waiver is sought and any alternative requirement that is proposed;

(2) describe the proposed innovative environmental strategy and the facility to which the strategy would pertain; and

(3) demonstrate the manner in which the innovative environmental strategy is expected to meet the requirements of section 7.

(b) PRELIMINARY REVIEW.—The Administrator shall review the proposal and determine whether, in the Administrator's sole discretion, the proposed strategy is sufficiently promising that the Administrator is prepared to enter into negotiations toward execution of an innovative environmental strategy agreement.

(c) NOTIFICATION.—The Administrator shall notify the proponent of a determination under subsection (b) not later than 90 days after submission, unless the proponent agrees to a longer review.

SEC. 6. STAKEHOLDER PARTICIPATION PROCESS.

(a) IN GENERAL.—The proponent of a proposal under section 5 shall—

(1) upon approval of the proposal for negotiation toward an agreement, undertake a stakeholder participation process in accordance with this section; and

(2) work to ensure that there is adequate independent technical support for an effective stakeholder process.

(b) DEVELOPMENT OF PROCESS.—

(1) IN GENERAL.—The stakeholder participation process shall be developed by the stakeholders and the proponent, in consultation with the Administrator.

(2) REQUIREMENTS.—The stakeholder participation process shall—

(A) be balanced and representative of interests that may be affected by the proposed strategy;

(B) ensure opportunities for public access to the process and make publicly available in a timely manner the proceedings of the stakeholder participation process, except with respect to confidential business information;

(C) establish procedures for conducting the stakeholder participation process, including open meetings as appropriate;

(D) if necessary, provide for appropriate agreements to protect confidential business information; and

(E) establish guidelines for the role of stakeholders, individually and as a group or subgroup, in the development of the strategy, including whether the stakeholders have an advisory, consultative, decision-making or veto role with respect to the strategy.

(c) FACA.—A stakeholder process satisfying the requirements of this section shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(d) PUBLIC NOTICE OF APPLICATION.—After a proposal is approved for negotiation toward an agreement, the proponent shall provide public notice of the proposal in a manner, approved by the Administrator, that is reasonably calculated to reach potentially interested parties including—

(1) community groups;

(2) environmental groups;

(3) potentially affected employees;

(4) persons living near or working in or near the affected facility; and

(5) relevant Federal, State, tribal, and local agencies.

(e) PARTICIPATION.—

(1) IN GENERAL.—A person that, not later than 60 days after the date on which public notice is first given under subsection (c), notifies the proponent of the person's intention to participate in the stakeholder participation process may participate in the process, except that a person that has a business interest in competition with that of the proponent may be excluded.

(2) ADDITIONAL STAKEHOLDERS.—Additional stakeholders may be added by the proponent, the Administrator or the stakeholder group after the stakeholder group is initially constituted in order to ensure full representation of all potentially affected interests throughout the process, including representation with respect to any new issues that may be raised during the process, and to ensure that appropriate expert assistance is available for the stakeholders.

(f) LIMITATION ON NUMBER OF PARTICIPANTS.—

(1) IN GENERAL.—In order to provide for a manageable stakeholder process, the Administrator may limit the number of stakeholder participants if the Administrator determines that the stakeholder participants adequately represent, in a balanced manner, the full range of interests (excluding competitive business interests) that may be affected by the innovative environmental strategy.

(2) NOTICE.—Before approving a limit on the number of stakeholder participants, the Administrator shall ensure that appropriate notice was provided to each of the groups identified in subsection (d).

(3) ADDITIONAL STAKEHOLDERS.—Notwithstanding any limit on the number of stakeholders that may be approved, additional stakeholders may be added to meet the requirements of subsection (e).

(g) NEGOTIATION.—After the stakeholder group has been identified, and procedures for the stakeholder process have been agreed on under subsection (b)(2)(E), the proponent, the stakeholders, and the Administrator shall initiate the process of negotiating toward an innovative environmental strategy agreement.

SEC. 7. REQUIREMENTS FOR APPROVAL.

(a) IN GENERAL.—The Administrator may enter into an innovative environmental strategy agreement if the Administrator determines that—

(1) the strategy is expected to achieve better environmental results (as determined under subsection (c));

(2) the strategy has potential value as a model for future changes in the broader regulatory structure or as a demonstration of new technologies or measures with potential for reducing pollution on a broader scale;

(3) the strategy provides for access to information adequate to enable verification of environmental performance by any interested person;

(4) the strategy provides a means and level of accountability, transparency, monitoring, reporting, and public and agency access to information relating to activities being carried out under an innovative environmental strategy that is at least equivalent to that provided under the agency rule, requirement, policy, or practice that the agreement seeks to modify or waive, including reporting of the benchmarks in the agreement;

(5) no person or populations would be subjected to unjust or disproportionate adverse environmental impacts as a result of implementation of the strategy;

(6) the strategy will ensure worker health and safety protections that are the same or superior to those provided under existing law;

(7) the strategy is not expected to result in adverse transport of a pollutant;

(8) any Federal, State, tribal, or local environmental agencies required to be signatories under section 8(c) are prepared to sign the agreement and the consultation required under section 8(c)(3) has occurred;

(9) the stakeholder participation process met the requirements of section 6, and the stakeholders have obtained adequate independent technical support for an effective process;

(10) there is broad community support for the strategy, as shown by stakeholder support and other relevant factors; and

(11) the strategy is expected to reduce regulatory burdens or provide other social or economic benefits.

(b) OTHER CONSIDERATIONS.—In determining whether to enter into an agreement, or to negotiate toward an agreement, the Administrator shall consider—

(1) whether the facility has a strong record of compliance with environmental and public health regulations and whether the proponent has demonstrated a strong commitment to achieve pollution prevention with respect to the facility;

(2) the extent to which the strategy involves new approaches to environmental protection and multimedia pollution prevention;

(3) the extent to which there is a link between the modification or waiver sought, the better environmental results expected, and other benefits; and

(4) the feasibility of the strategy and the ability of the proponent to carry out the strategy.

(c) BETTER ENVIRONMENTAL RESULTS.—

(1) EVALUATION.—The Administrator shall determine whether a strategy is expected to achieve better environmental results based on the magnitude of reduction in the level of releases or improvement in pollution prevention relative to each benchmark established under paragraphs (4) through (7);

(2) OTHER CONSIDERATIONS.—In addition to making the determination under paragraph (1), the Administrator shall evaluate the extent to which the strategy—

(A) results in environmental performance more protective than the best performance practice of comparable facilities;

(B) relies on pollution prevention;

(C) incorporates continuous improvement toward ambitious quantitative environmental goals;

(D) produces clear reduction of risk, based on a well-accepted analytical method acceptable to the Administrator and the stakeholders;

(E) improves environmental conditions that are priorities to stakeholders, including conditions not regulated under statutes administered by the agency;

(F) reflects historic demonstration of leadership in environmental performance of the facility;

(G) substantially addresses community and public health priorities of concern to stakeholders, including concerns not addressed under statutes administered by the agency;

(H) addresses other factors that the Administrator determines clearly improve environmental performance in the context of a specific strategy; and

(I) includes reductions in releases or improvement in pollution prevention in addition to those considered by the Administrator for purposes of paragraph (1).

(3) FINDINGS.—The Administrator shall provide findings setting forth the basis for the determination that the innovative environmental strategy is expected to achieve better environmental results. If the Administrator determines that the magnitude of reduction in the level of releases or improvement in pollution prevention would be a reduction or improvement, but not a significant reduction or improvement, the Administrator may approve a proposal only if the Administrator determines that the strategy is expected to result in a clear and substantial improvement in environmental protection, considering the other factors in this subsection.

(4) BENCHMARK.—The benchmark for releases of each pollutant into the air, water, or land shall be as follows:

(A) EXISTING FACILITIES.—For existing facilities, the benchmark shall be the lesser of—

(i) the level of releases of each pollutant into the air, water, or and being achieved before the date of submission of the proposal; or

(ii) the level of releases of each pollutant into the air, water, or land allowed under applicable regulatory requirements and any reasonably anticipated future regulatory requirements;

except that the Administrator may, based on extraordinary site-specific circumstances, modify the level under subparagraph (A)(i) on a case by case basis for a facility that has reduced releases significantly below applicable regulatory requirements before the date of submission of the proposal.

(B) NEW OR MODIFIED FACILITIES.—For new or significantly expanded facilities, the benchmark shall be based on the lesser of—

(i) the level of releases of each pollutant into the air, water, or land allowed under applicable regulatory requirements and any reasonably anticipated future regulatory requirements; or

(ii) the level of releases of each pollutant into the air, water, or land based on best industry practices.

(5) POLLUTION PREVENTION.—

(A) NO RELEASE OF A POLLUTANT.—In appropriate circumstances not involving release of a pollutant, the Administrator may establish a pollution prevention benchmark to evaluate changes in inputs to production of materials or substances of potential environmental or public health concern.

(B) RELEASE OF A POLLUTANT.—In circumstances involving a release of a pollutant, the Administrator may establish a pollution prevention benchmark in addition to the benchmark under paragraph (4).

(6) BASIS OF MEASUREMENT.—A benchmark may be established on the basis of total emissions, on a per-unit of production basis, or on a comparable basis of measurement, as determined by the Administrator.

(7) OTHER CONSIDERATIONS.—The Administrator may determine that the requirements of this section are met if a benchmark is not met, if—

(A) with respect to other benchmarks, the strategy achieves a significant increment of reduced level of releases below that permitted by the benchmark;

(B) the strategy, based on a well-established analytic methodology acceptable to the Administrator and the stakeholders—

(i) is expected to achieve overall better environmental results with an adequate margin of safety;

(ii) is not expected to result in an increase in the risk of adverse effects, or shift the risk of adverse effects, to the health of an individual, population, or natural resource affected by the strategy; and

(iii) is expected to achieve clear risk reduction; and

(C) the strategy is not expected to result in an exceedance of an ecological, health, or risk-based environmental standard.

(d) VIEWS OF STAKEHOLDERS.—

(1) IN GENERAL.—The Administrator shall give great weight to the views of individual stakeholders and to the stakeholders as a group in determining whether to approve or disapprove a strategy.

(2) STAKEHOLDERS WITH DECISIONMAKING ROLE.—The Administrator shall deny a proposal if—

(A) the stakeholder group and the proponent have determined under section 6 that the group, any subgroup, or 1 or more individual stakeholders in the group will have the ability to veto a decision by the proponent to go forward with the strategy;

(B) the group or 1 or more stakeholders objects to the strategy; and

(C) the Administrator determines that the objection relates to the criteria stated in section 7 and that the objection has a clear and reasonable foundation.

SEC. 8. FINAL DETERMINATION ON AGREEMENT.

(a) PROPOSAL.—

(1) IN GENERAL.—Not later than 180 days after the date on which negotiations are initiated under section 6(g) or such later date as may be agreed to by the proponent and the stakeholders, the Administrator shall—

(A) provide public notice and opportunity to comment on a proposed innovative environmental strategy agreement; or

(B) notify the proponent and the stakeholder group that the Administrator does not intend to enter into an agreement.

(2) FORM OF NOTICE.—Public notice under paragraph (1) shall be provided by—

(A) publishing a notice in the Federal Register; and

(B) providing public notice to persons potentially interested in the strategy in the manner described in section 6(d).

(3) COMMENT PERIOD.—The public comment period shall be not less than 30 days, and shall be extended by an additional 30 days if an extension is requested by any person not later than 15 days after the beginning of the public comment period.

(b) FINAL DECISION.—

(1) IN GENERAL.—Not later than 60 days after the end of the public comment period, the Administrator shall determine whether to enter into an agreement, and shall give notice of the determination in the same manner as notice was given of the proposed agreement.

(2) RESPONSE.—The Administrator—

(A) shall respond to comments received; and

(B) may modify the agreement in response to the comments.

(c) SIGNATORIES.—

(1) IN GENERAL.—The parties to an innovative environmental strategy agreement—

(A) shall include the Administrator, the proponent, and any Federal, State, or local agency or Indian tribe with jurisdiction over the subject matter of the agreement under this Act; and

(B) may include a stakeholder.

(2) JOINT RULES REQUIREMENTS AND POLICIES.—If an agreement waives or modifies a rule, requirement, or policy issued by the agency jointly with another Federal agency, the other Federal agency shall be a signatory to the agreement.

(3) CONSULTATION.—The Administrator shall consult with and consider the views of any Federal agency with management responsibility or regulatory or enforcement authority over land or natural resources that may be affected by the strategy.

SEC. 9. STATE ROLE.

(a) IN GENERAL.—If a proposed strategy involves waiving or modifying requirements imposed under State, tribal, or local law, the Administrator shall not approve an agreement unless procedures required under those laws for such waiver or modification are followed in addition to the execution of the innovative environmental strategy agreement.

(b) PART OF FEDERAL PROGRAM.—If a proposed strategy involves waiving or modifying requirements of State, tribal, or local law that are part of an authorized or delegated Federal program, execution of an innovative environmental strategy agreement by the Administrator and by the State, Indian tribe, or local government shall be deemed to provide authorization or approval of the program as modified by the agreement.

SEC. 10. ENFORCEABILITY.

(a) SPECIFICATION OF ENFORCEABLE PROVISIONS.—

(1) DEFINITION OF VOLUNTARY COMMITMENT.—In this section, the term ''voluntary commitment'' means a commitment that the parties to the agreement consider to be a necessary part of the strategy but is not enforceable under this section.

(2) INCLUSION IN AGREEMENT.—An innovative environmental strategy agreement shall include enforceable requirements and may include voluntary commitments.

(3) ENFORCEABLE REQUIREMENTS.—

(A) IDENTIFICATION.—Enforceable requirements shall be clearly identified and distinguished in the agreement from voluntary commitments.

(B) INCLUSION OF ALL NECESSARY ACTIONS.—In all cases, enforceable requirements shall include, at a minimum, all actions necessary to achieve better environmental results relied upon by the Administrator for purposes of section 7(c)(1), and all accountability, monitoring, reporting, and public and agency access requirements mandated by paragraphs (3) and (4) of section 7(a).

(4) VOLUNTARY COMMITMENTS.—Failure to implement a voluntary commitment may constitute a ground for termination of the agreement.

(b) TREATMENT OF AGREEMENT AS PERMIT, CONDITION, OR REQUIREMENT.—

(1) DEFINITION OF OTHERWISE APPLICABLE REQUIREMENT.—In this subsection, the term ''otherwise-applicable requirement'' means a rule, permit, condition, policy, practice, or other requirement that an innovative environmental strategy agreement modifies, waives, or replaces.

(2) IDENTIFICATION OF ENFORCEABLE REQUIREMENTS.—An innovative environmental strategy agreement shall state in a separate section designated ''Enforceable Requirements'' all of the enforceable requirements of the agreement.

(3) IDENTIFICATION OF MODIFIED, OTHERWISE WAIVED OR RELOCATED REQUIREMENTS.—An innovative environmental strategy agreement shall identify (including citation to the specific provision of a statute or rule), with respect to each enforceable requirement, each otherwise-applicable requirement that the agreement waives, modifies, or replaces.

(4) TREATMENT.—Each enforceable requirement shall be deemed, for purposes of enforcement, to be a permit issued under, a condition imposed by, or a requirement of the statute or rule under which the otherwise-applicable requirement that the agreement modifies, waives, or replaces was imposed.

(5) ENFORCEABILITY.—Each enforceable requirement shall be enforceable in the same manner and to the same extent (by the United States, by a State or Indian tribe, or by any other person) as the otherwise-applicable requirement would have been enforceable but for the agreement.

(6) NEW ENFORCEABLE REQUIREMENT DERIVED FROM OR IMPOSED UNDER CURRENT LAW.—An enforceable requirement that does not modify, waive, or replace a requirement shall be enforceable in the same manner and to the same extent as a permit, condition, or requirement under the statute or rule from or under which the enforceable requirement derives or is imposed.

(7) ENFORCEABLE REQUIREMENT THAT DOES NOT MODIFY, WAIVE, OR REPLACE ANOTHER REQUIREMENT.—If an enforceable requirement does not derive from or is not imposed under any statutory or regulatory provision, the agreement shall specify the statute under which the enforceable requirement shall be deemed to be imposed for purposes of enforcement and shall be enforceable (by the United States, a State, Indian tribe, and by other persons) in the same manner and to the same extent as a permit, condition, or requirement under that statute or regulation.

(8) EMERGENCY OR IMMINENT HAZARD AUTHORITY.—Nothing in this Act limits or affects the Administrator's emergency or imminent hazard authorities.

(c) SPECIFICATION OF AFFECTED REQUIREMENTS.—

(1) IN GENERAL.—When the Administrator approves an innovative environmental strategy agreement under subsection (a), the Administrator shall specify in the agreement each rule, requirement, policy, or practice that is modified or waived by the innovative agreement.

(2) NO MODIFICATION OR WAIVER.—Each rule, requirement, policy, or practice not specified pursuant to the preceding sentence is not modified and waived.

(d) TERMINATION OR MODIFICATION OF AGREEMENT.—

(1) IN GENERAL.—The Administrator may terminate or modify an innovative environmental strategy agreement if the Administrator determines that—

(A) the strategy fails or will fail to achieve the better environmental results identified pursuant to section 7;

(B) better environmental results are no longer being achieved by the strategy by reason of the enactment of a new provision of law or promulgation of a new regulation;

(C) there has been noncompliance with the terms of the agreement (including a voluntary commitment);

(D) there has been a change or transfer in ownership or operational control of the facility to which the agreement relates, or a material change, alteration, or addition to the facility; or

(E) any other event specified in the agreement as a ground for termination or modification has occurred.

(2) EFFECT.—On termination of an innovative environmental strategy agreement, the owner or operator of the facility to which the agreement related shall immediately become subject to each otherwise-applicable requirement (as defined in subsection (b)).

(e) TERM OF AGREEMENT.—

(1) IN GENERAL.—The term of an innovative environmental strategy agreement shall not exceed 5 years, unless the Administrator determines, after considering the views of the stakeholders, that—

(A) a longer period of time is required—

(i) to achieve the better environmental results identified under section 7; or

(ii) in a case in which a proponent is making a substantial investment in reliance on the agreement, to ensure a reasonable degree of confidence that the investment will be recovered; and

(B) the requirements of section 7 continue to be met.

(2) EXTENSION OR RENEWAL.—In consultation with the stakeholders and with the concurrence of the signatories to the agreement and after public notice and opportunity for comment consistent with section 8, the Administrator may extend or renew an agreement for an additional term or terms, but the Administrator may not extend or renew an agreement if the extension or renewal would not further the purposes of this Act or the strategy would no longer meet the requirements of section 7.

SEC. 11. JUDICIAL REVIEW.

(a) FAILURE TO PERFORM NONDISCRETIONARY ACT OR DUTY.—

(1) IN GENERAL.—Any person may commence a civil action in the United States District Court for the District of Columbia against the Administrator for failure to perform an act or duty under this Act that is not discretionary with the Administrator.

(2) TIMING.—No action may be commenced under subsection (a) before the date that is 60 days after the date on which the plaintiff gives notice to the Administrator of the act or duty that the Administrator has failed to perform and of the intent of the plaintiff to commence the action.

(b) DECISION TO ENTER INTO AGREEMENT.—

(1) IN GENERAL.—A person other than a signatory to an innovative environmental strategy agreement may seek judicial review of a decision by the Administrator to enter into such an agreement in accordance with chapter 7 of title 5, United States Code.

(2) APPEAL.—A petition on appeal of a judgment in a civil action under this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit not later than 90 days after the date on which public notice of the decision to enter into the agreement is published under section 8(b).

(c) NO JUDICIAL REVIEW OF OR RECORD JUSTIFICATION FOR DECISION NOT TO ENTER INTO

AGREEMENT.—A decision not to enter into, modify, renew, or enter into negotiations toward an innovative environmental strategy agreement and decisions under section 6 regarding the stakeholder process shall not be subject to judicial review and shall not require record justification by the Administrator.

SEC. 12. LIMITATION ON NUMBER OF AGREEMENTS.

(a) IN GENERAL.—The Administrator shall not enter into more than 50 innovative environmental strategy agreements unless, in the Administrator's sole discretion, and taking into account the full range of the agency's obligations, the Administrator determines that adequate resources exist to enter into a greater number of agreements.

(b) LIMIT.—The Administrator, in the Administrator's sole discretion, may limit the number of agreements to less than 50.

(c) PRIORITY CONSIDERATION DIVERSITY.—The Administrator shall—

(1) give priority consideration to proposals from small businesses; and

(2) seek to ensure that the agreements entered into reflect proposals from a diversity of industrial sectors, particularly from sectors where there is significant potential for environmental improvement.

SEC. 13. SMALL BUSINESS PROPOSALS.

The Administrator shall establish a program to facilitate development of proposals for innovative environmental strategies from small businesses and groups of small businesses and to provide for expedited and tailored review of such proposals.

SEC. 14. SAVINGS CLAUSE.

(a) EFFECT OF DECISIONS BY THE ADMINISTRATOR.—A decision by the Administrator to enter into an agreement under this Act shall not affect the validity or applicability of any rule, requirement, policy, or practice, that is modified or waived in the agreement with respect to any facility other than the facility that is subject to the agreement.

(b) OTHER AGREEMENTS.—Nothing in this Act affects the authority of the Administrator in existence on the date of enactment of this Act to enter into or carry out agreements providing for innovative environmental strategies or affects any other existing authority under which the Administrator may undertake innovative initiatives.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act affects the regulatory or enforcement authority of any other Federal agency under the laws implemented by the Federal agency except to the extent provided in an agreement to which the other Federal agency is a party.

(d) LIMITS ON PURPOSES AND USES OF AGREEMENTS.—An agreement under this Act—

(1) may not be adopted for the purpose of curing or addressing past or ongoing violations or noncompliance at a participating facility;

(2) may not be used as a legal or equitable defense by any party or facility not party to the agreement, or by a party to the agreement as a defense in an action unrelated to any requirement imposed under the agreement;

(3) shall not limit or affect the Administrator's authority to issue new generally applicable regulations or to apply regulations to the facility that is the subject of the agreement;

(4) shall not give rise to any claim for damages or compensation in the event of a change in statutes or regulations applicable to such facility; and

(5) shall not be admissible for any purpose in any judicial proceeding other than a proceeding to challenge, defend, or enforce the agreement.

(e) APPLICABLE LAW.—

(1) CONTRACT LAW.—An innovative environmental strategy agreement—

(A) shall not be interpreted or applied according to contract law principles; and

(B) shall not be subject to contract or other common law defenses.

(2) OSHA.—For purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), the exercise by the Administrator of any authority under this Act shall not be deemed to constitute or exercise of authority to prescribe or enforce a standard or regulation affecting occupational safety or health.

SEC. 15. EVALUATION AND REPORT.

(a) EVALUATION.—The Administrator shall establish an ongoing process with public participation to—

(1) evaluate lessons learned from innovative environmental strategies; and

(2) determine whether the approaches embodied in an innovative environmental strategy should be proposed for incorporation in an agency rule.

(b) REPORTS.—

(1) INDIVIDUAL STRATEGIES.—Not later than 18 months after entering into an innovative environmental strategy agreement, the Administrator shall submit to Congress a report evaluating whether the approaches embodied in an innovative environmental strategy should be proposed for incorporation in a statute or a regulation.

(2) AGGREGATE EFFECT.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to Congress a report on the aggregate effect of the innovative environmental strategy agreements entered into under this Act, including—

(A) the number and characteristics of the agreements;

(B) estimates of the environmental and public health benefits, including any reductions in quantities or types of emissions and wastes generated;

(C) estimates of the effect on compliance costs;

(D) the degree and nature of public participation and accountability;

(E) estimates of nonenvironmental benefits obtained;

(F) conclusions on the functioning of the stakeholder participation process; and

(G) a comparison of effectiveness of the program relative to comparable State programs, using comparable performance measures.

SEC. 16. IMPLEMENTATION AUTHORITY.

The Administrator may issue such regulations as are necessary to carry out the agency's functions under this Act.

SEC. 17. TECHNICAL ASSISTANCE GRANTS.

The Administrator may establish a program to provide grants for technical assistance to stakeholder groups.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the agency to carry out this Act $4,000,000 for each of fiscal years 1999 through 2003 (including such sums as are necessary to provide technical assistance to stakeholder groups).

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

S. 1349. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Prince Nova*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CROSS SOUND FERRY SERVICE ACT OF 1997

Mr. DODD. Mr. President, I rise today to introduce with Senator LIEBERMAN legislation to waive the 1920 Merchant Marine Act, commonly known as the Jones Act, to allow Cross Sound Ferry Services, Inc., to purchase, rebuild, and operate the 1964 Canadian-built vessel *Prince Nova*. Faced with an increased demand for its services and a shortage of suitable U.S.-built ferries, Cross Sound cannot purchase a domestically built vessel.

Cross Sound Ferry Services, a family owned, nonsubsidized operation, provides auto, truck, and high speed passenger service between Orient Point, NY, and New London, CT. According to the proposed waiver, Cross Sound will purchase the *Prince Nova*, and spend more than three times the purchase price, no less than $4.2 million, on the conversion, restoration, repair, rebuilding, or retrofitting of the ferry in a shipyard located in New London.

Cross Sound Ferry Service, a vital link between New England and eastern Long Island, provides an alternative mode of transportation that saves trucks and autos up to 200 miles in each direction, and reduces traffic, congestion, and wear on major roadways. From an environmental standpoint, ferry service reduces fuel consumption and pollution. Currently, the I–95 corridor throughout the Northeast is under a tremendous traffic burden. If the waiver is granted, it is expected that the new and expanded service the *Prince Nova* will provide will save 6 million miles and 360,000 travel hours.

Cross Sound's commitment to service the *Prince Nova* in a United States shipyard will create high-skilled, high-wage jobs. Additionally, this waiver will undoubtably better facilitate commerce and encourage economic development in the region by allowing consumers easier access to goods and services. Furthermore, it will provide businesses with an additional mode to transport their products.

An identical waiver was passed last week in the House of Representatives as part of the Coast Guard Authorization Act of 1997. It is our hope that it will receive the same favorable consideration in the Senate.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1349

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

SECTION 1. DOCUMENTATION OF THE VESSEL PRINCE NOVA.

(a) DOCUMENTATION AUTHORIZED.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade

for the vessel PRINCE NOVA (Canadian registration number 320804).

(b) EXPIRATION OF CERTIFICATE.—A certificate of documentation issued for the vessel under subsection (a) shall expire unless—

(1) the vessel undergoes conversion, reconstruction, repair, rebuilding, or retrofitting in a shipyard located in the United States;

(2) the cost of that conversion, reconstruction, repair, rebuilding, or retrofitting is not less than the greater of—

(A) 3 times the purchase value of the vessel before the conversion, reconstruction, repair, rebuilding, or retrofitting; or

(B) $4,200,000; and

(3) not less than an average of $1,000,000 is spent annually in a shipyard located in the United States for conversion, reconstruction, repair, rebuilding, or retrofitting of the vessel until the total amount of the cost required under paragraph (2) is spent.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 1350. A bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TELECOMMUNICATIONS FACILITIES ACT OF 1997

Mr. LEAHY. Mr. President, I ask unanimous consent that a copy of my bill to preserve State and local authority to regulate the placement, construction, and modification of telecommunication facilities be printed in the RECORD.

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

S. 1350

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress make the following findings:

(1) The placement of commercial telecommunications, radio, or television towers near homes can greatly reduce the value of such homes, destroy the views from such homes, and reduce substantially the desire to live in such homes.

(2) States and localities should be able to exercise control over the construction and location of such towers through the use of zoning, planned growth, and other controls relating to the protection of the environment and public safety.

(3) There are alternatives to the construction of additional telecommunications towers to meet telecommunications needs, including the co-location of antennae on existing towers and the use of alternative technologies.

(4) On August 19, 1997, the Federal Communications Commission issued a proposed rule, MM Docket No. 97–182, which would preempt the application of State and local zoning and land use ordinances regarding the placement of telecommunications towers. It is in the interest of the Nation that the Commission not adopt this rule.

(5) It is in the interest of the Nation that the second memorandum opinion and order and notice of proposed rule making of the Commission with respect to application of such ordinances to the placement of such towers, WT Docket No. 97–192, ET Docket No. 93–62, and RM–8577, be modified in order to permit State and local governments to exercise their zoning and land use authorities, and their power to protect public health and safety, to regulate the placement of telecommunications towers and to place the burden of proof in civil actions relating to the placement of such towers on the person or entity that seeks to place, construct, or modify such towers.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To repeal the limitations on the exercise of State and local authorities regarding the placement, construction, and modification of personal wireless service facilities that arise under section 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)).

(2) To permit State and local governments to regulate the placement, construction, and modification of such facilities on the basis of the environmental effects of the operation of such facilities.

(3) To prohibit the Federal Communications Commission from adopting rules which would preempt State and local regulation of the placement of such facilities.

SEC. 2. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF CERTAIN TELECOMMUNICATIONS FACILITIES.

(a) REPEAL OF LIMITATIONS.—Section 332(c)(7)(B) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(B)) is amended—

(1) in clause (i), by striking ''thereof—'' and all that follows through the end and inserting ''thereof shall not unreasonably discriminate among providers of functionally equivalent services.'';

(2) by striking clause (iv);

(3) by redesignating clause (v) as clause (iv); and

(4) in clause (iv), as so redesignated, by striking the third sentence and inserting the following: ''In any such action in which a person seeking to place, construct, or modify a tower facility is a party, such person shall bear the burden of proof.''.

(b) PROHIBITION ON ADOPTION OF RULE.—Notwithstanding any other provision of law, the Federal Communications Commission may not adopt as a final rule the proposed rule set forth in ''Preemption of State and Local Zoning and Land Use Restrictions on Siting, Placement and Construction of Broadcast Station Transmission Facilities'', MM Docket No. 97–182, released August 19, 1997.

Mr. JEFFORDS. Mr. President, I rise today to continue a discussion that my colleague, Senator LEAHY, began earlier, with regard to the Federal Communications Commission proposed rulemaking on regulations for wireless and digital broadcast facilities.

University of Vermont instructor and landscape designer Jean Veissering recently stated ''We have a real spiritual connection with hilltops. They tend to be almost sacred ground. Building something jarringly out of character upon them seems almost like a sacrilege.'' Mr. President, I share Jean's sentiments completely. In addition, it is the beautiful views of the majestic mountain ranges that in many ways defines what Vermont is all about.

Vermonters take great pride in their heritage as a State committed to the ideals of freedom and unity. That heritage goes hand and hand with a unique quality of life and the desire to grow and develop while maintaining Vermont's beauty and character. Ethan Allan and his Green Mountain Boys and countless other independent minded Vermonters helped shape the Nation's 14th State while making outstanding contributions to the independence of this country. Today, that independence still persists in the hills and valleys of Vermont. Vermonters have worked hard over the years to maintain local control over issues that impact them directly.

Throughout my years in Congress, I fought hard to protect the ability of Vermonters to step out of their kitchen doors and see an unobstructed view. Thousands of Americans travel to Vermont each year to take in the splendid nature of the State.

However, Vermont could have looked quite different if it were not for some foresight on behalf of several Vermonters. In the 1960's, the State of Vermont was entering into a period of unchecked development. In response, Governor Dean C. Davis created the Commission on Environmental Control in May of 1969. The commission drafted a set of recommendations to help manage the precious resources of the State.

As the attorney general for the State at that time, I was one of the primary drafters of an environmental land use law which would later become known as Act 250. Act 250 was specifically written to control development, not to stop development, and in turn, this act has led Vermont to economic prosperity through balanced environmental protection.

After reviewing the Commission on Environmental Control's recommendation and the proposed legislation, Governor Davis made one very basic, but important change in the legislation. The proposed legislation had called for a State agency to administer the act. The Governor was adamant in his belief that the control should be as close to the people as possible. It is that control which the FCC's proposed rulemaking is looking to preempt.

Governor Davis' recommendation led to placing the permitting process in the hands of local environmental review boards with appeal rights to the Vermont Environmental Board. Thus, the act is administered by men and women who are directly involved in their communities and thoroughly familiar with local concerns.

When reviewing an application for new development, the local environmental review boards take into account the economic needs of the State along with regional concerns. The review board's underlying goal is to direct the impact of development toward the positive. The positive approach has led to a high priority on preserving the environment, protecting the natural resources, and maintaining the quality of life of all Vermonters.

On October 9, 1997, the State of Vermont Environmental Board filed comments with the Federal Communications Commission that stated: ''Far from being an impediment to personal wireless service deployment, Vermont's Act 250 demonstrates that the

path to economic prosperity is through balanced environmental protection, not preemption of such protection.'' I share the board's sentiments and feel that the FCC should take no further steps to preempt Vermont's Act 250 with respect to personal wireless service facilities.

Mr. President, the Green Mountain State has unique topography, dominated by rolling valleys and tall mountains. In turn, the citizens of the State have taken many steps to help preserve the beautiful views and pristine environment. The determination of the location of visible transmission towers should remain within the jurisdiction of local control. I feel that the Telecommunication Act of 1996 recognizes and protects the interest of local and State government in the area of land use regulation.

As the attorney general of the State of Vermont at the time of the enactment of Act 250, I am proud of the role I and many other Vermonters played in the subsequent management of the precious natural resources of the State. I support Act 250 and feel that the placement of communications towers should be left in the hands of the residents of Vermont not by a Federal agency.

I have written to the Chairman of the FCC with regard to my concerns about this proposed rulemaking. In addition, yesterday the Senate confirmed William Kennard to be the next Chairman of the FCC. Upon his confirmation, I wrote a letter to Chairman Kennard personally inviting him to the State of Vermont to see first hand how this proposed rulemaking would impact the State. I hope that he will join me on a tour of the State which will demonstrate to him the importance of local control with respect to the placement of broadcast facilities. Further, I look forward to explaining how Act 250 has allowed for the development of wireless communication in the State while protecting the environment.

Mr. President, in conclusion, I want to commend Mr. LEAHY for introducing this very important legislation for the State of Vermont. I am pleased to be a cosponsor and I look forward to working with him to protect Vermont's interests unique landscape.

By Mr. BURNS:

S. 1351. A bill to amend the Sikes Act to establish a mechanism by which outdoor recreation programs on military installations will be accessible to disabled veterans, military dependents with disabilities, and other persons with disabilities; to the Committee on Armed Services.

THE DISABLED SPORTSMEN'S ACCESS ACT

Mr. BURNS. Madam President, I rise today to introduce the Disabled Sportsmen's Access Act. This legislation will provide new opportunities for sportsmen with disabilities to hunt and fish on the numerous Department of Defense facilities across this Nation. This legislation will also allow the Department of Defense to work with private sector groups to build facilities and operate programs for the benefit of sportsmen with disabilities.

The beginnings of this legislation originate from a program developed at the Marine Corps Base at Quantico, VA. The program, run by Lt. Col. Lewis Deal, is a prime example of the work that can be done to provide new opportunities for people with disabilities. Lieutenant Colonel Deal has combined private sector volunteers work with donations from other people to build permanent disabled accessible blinds for deer hunting, which are used during both gun and bow seasons. These blinds provide people living with disabilities many of the same opportunities for outdoor recreation that we all enjoy.

There are plans underway at this time to construct a fishing pier on the Potomac River for access by people with disabilities. This pier is to be built with lower railings, and stops to provide access and security for disabled persons.

This legislation, uses the current program at Quantico, to allow the Department of the Defense to provide access to it's 30 million acres of wildlands by disabled individuals, as long as it does not interfere with the primary mission of the military, that of our Nation's defense. The military installations around the Nation offer a number of recreational and outdoor activities for both military and civilian personnel.

This legislation, will encourage the Department of Defense to give access to individuals with disabilities and allow the Department to accept donations or money and materials as well as use volunteers for the construction of facilities accessible to sportsmen with disabilities. The bill would allow this voluntary work to be done without cost to the Federal Government or the taxpayer.

Madam President, this legislation has the support of numerous organizations, including the bipartisan Congressional Sportsmen's Caucus, the Paralyzed Veterans of America, Disabled American Veterans. Among sportsmen's groups the bill has the endorsement of the Wheeling Sportsmen of America, Safari Club International, Wildlife Management Institute, the International Association of Fish and Wildlife Agencies and the Congressional Sportsmen's Foundation. I join today with my friend Congressman DUKE CUNNINGHAM to bring this important legislation to the attention of my colleagues.

I hope that all my colleagues in Congress would join Congressman CUNNINGHAM and myself in supporting this legislation for disabled sportsmen in our country.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 678

At the request of Mr. LEAHY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 678, a bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

S. 766

At the request of Ms. SNOWE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 813

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 813, a bill to amend chapter 91 of title 18, United States Code, to provide criminal penalties for theft and willful vandalism at national cemeteries.

S. 1096

At the request of Mr. KERREY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1105

At the request of Mr. COCHRAN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes.

S. 1153

At the request of Mr. BAUCUS, the names of the Senator from Nevada [Mr. BRYAN] the Senator from California [Mrs. FEINSTEIN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1153, a bill to promote food safety through continuation of the Food Animal Residue Avoidance Database program operated by the Secretary of Agriculture.

S. 1194

At the request of Mr. KYL, the names of the Senator from Tennessee [Mr. FRIST] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the medicare program.

S. 1228

At the request of Mr. CHAFEE, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1228, a bill to

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

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. GRAHAM, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1283

At the request of Mr. BUMPERS, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1283, a bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the ''Little Rock Nine'' on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1292

At the request of Mr. STEVENS, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Nebraska [Mr. HAGEL], the Senator from Maryland [Ms. MIKULSKI], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 1292, a bill disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45.

S. 1297

At the request of Mr. COVERDELL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1297, a bill to redesignate Washington National Airport as ''Ronald Reagan Washington National Airport''.

S. 1310

At the request of Mr. FORD, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1310, a bill to provide market transition assistance for tobacco producers, tobacco industry workers, and their communities.

S. 1311

At the request of Mr. LOTT, the names of the Senator from Oklahoma [Mr. INHOFE], the Senator from Colorado [Mr. ALLARD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Ohio [Mr. DEWINE], the Senator from Texas [Mr. GRAMM], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

S. 1314

At the request of Mrs. HUTCHISON, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Nebraska [Mr. HAGEL], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1314, a bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals.

S. 1327

At the request of Mr. ROTH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1327, a bill to grant normal trade relations status to the People's Republic of China on a permanent basis upon the accession of the People's Republic of China to the World Trade Organization.

SENATE RESOLUTION 93

At the request of Mr. GRASSLEY, the names of the Senator from Kansas [Mr. BROWNBACK], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Idaho [Mr. CRAIG], the Senator from New Mexico [Mr. DOMENICI], the Senator from Washington [Mr. GORTON], the Senator from Nebraska [Mr. HAGEL], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Oklahoma [Mr. INHOFE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mrs. FEINSTEIN], the Senator from Kentucky [Mr. FORD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Wisconsin [Mr. KOHL], the Senator from Louisiana [Ms. LANDRIEU], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New York [Mr. MOYNIHAN], the Senator from New Jersey [Mr. TORRICELLI], the Senator from Missouri [Mr. ASHCROFT], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of Senate Resolution 93, a resolution designating the week beginning November 23, 1997, and the week beginning on November 22, 1998, as ''National Family Week,'' and for other purposes.

SENATE RESOLUTION 141

At the request of Mrs. MURRAY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Resolution 141, a resolution expressing the sense of the Senate regarding National Concern About Young People and Gun Violence Day.

SENATE CONCURRENT RESOLUTION 58—EXPRESSING THE CONCERN OF CONGRESS

Mr. GRAMS (for himself and Mr. SMITH of Oregon) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 58

Whereas the Russian legislature approved a bill ''On Freedom of Conscience and Religious Association'', and Russian President Boris Yeltsin signed it into law on September 26;

Whereas under the new law, the Russian government exercises almost unrestricted control over the activities of both Russian and international religious groups;

Whereas the new law will grant privileged status to some religions while discriminating against others through restrictive reporting and registration requirements;

Whereas the new law jeopardizes religious rights by permitting government officials, in consultation with privileged religious groups, to deny or revoke the registration of minority religions and order their possible disbandment or prohibition, on the basis of such activities as home schooling, nonmedical forms of healing, ''hypnotic'' sermons, and other vaguely defined offenses;

Whereas the law also restricts foreign missionary work in Russia;

Whereas under the new law, religious organizations or churches that wish to continue their activities in Russia will have to provide confirmation that they have existed at least 15 years, and only those who legally operated 50 years ago may be recognized as national ''Russian'' religious organizations;

Whereas although Article 14 of the Russian Constitution stipulates that ''religious associations are separate from the state and are equal before the law'', Article 19 states that restriction of citizens' rights on grounds of religious affiliation are prohibited, and Article 28 stipulates that ''each person is guaranteed freedom of conscience and freedom * * * to choose, hold, and disseminate religious and other convictions and to act in accordance with them'', the new law clearly violates these provisions of the Russian Constitution;

Whereas the Russian religion law violates accepted international agreements on human rights and religious freedoms to which the Russian Federation is a signatory, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Final Act and Madrid and Vienna Concluding Documents, and the European Convention on Human Rights;

Whereas governments have a primary responsibility to promote, encourage, and protect respect for the fundamental and internationally recognized right to freedom of religion; and

Whereas the United States Government is committed to the right to freedom of religion and its policies, and should encourage

foreign governments to commit to this principle: Now, therefore, be it—

Resolved by the Senate (the House of Representatives concurring), That Congress hereby—

(1) condemns the newly passed Russian antireligion law restricting freedom of religion, and violating international norms, international treaties to which the Russian Federation is a signatory, and the Constitution of Russia;

(2) recommends that President Clinton make the United States position clear to President Yeltsin and the Russian legislature that this antireligion law may seriously harm United States-Russian relations;

(3) calls upon President Yeltsin and the Russian legislature to uphold their international commitments on human rights, abide by the Russian Constitution's guarantee of freedom of religion, and reconsider their position by amending the new antireligion law and lifting all restrictions on freedom of religion; and

(4) calls upon all governments and legislatures of the independent states of the former Soviet Union to respect religious human rights in accordance with their international commitments and resist efforts to adopt the Russian discriminatory law.

AMENDMENTS SUBMITTED

THE EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

KOHL AMENDMENT NO. 1528

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes; as follows:

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

SEC. ___. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE; FOREIGN TAX CREDIT CARRYOVERS.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(A) to acquire, construct, rehabilitate, or expand property—

''(i) which is to be used as part of a qualified child care facility of the taxpayer,

''(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

''(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

''(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

''(D) under a contract to provide child care resource and referral services to employees of the taxpayer.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

''(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999.''

(2) CONFORMING AMENDMENTS.—

(A) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(i) by striking out ''plus'' at the end of paragraph (11),

(ii) by striking out the period at the end of paragraph (12), and inserting a comma and ''plus'', and

(iii) by adding at the end the following new paragraph:

''(13) the employer-provided child care credit determined under section 45D.''

(B) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Employer-provided child care credit.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1996.

(b) MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.—

(1) IN GENERAL.—Subsection (c) of section 904 of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(A) by striking ''in the second preceding taxable year,'', and

(B) by striking ''or fifth'' and inserting ''fifth, sixth, or seventh''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to credits arising in taxable years beginning after December 31, 1997.

DURBIN AMENDMENT NO. 1529

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, H.R. 2646, surpa; as follows:

Strike section 2 and insert:

SEC. 2. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

''For taxable years beginning in calendar year—	the applicable percentage is—
1998	75
1999	75
2000	75
2001	80
2002	80
2003	80
2004	80
2005	80
2006 and thereafter	100.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

MOYNIHAN AMENDMENT NO. 1530

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 2 and insert:

SEC. 2. EXCLUSION FOR EDUCATIONAL ASSISTANCE TO GRADUATE STUDENTS.

(A) IN GENERAL.—The last sentence of section 127(c)(1) of the Internal Revenue Code of 1986 (defining educational assistance) is amended by striking '', and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) small apply with respect to expenses relating to courses beginning after July 31, 1997.

GRAHAM AMENDMENT NO. 1531

(Ordered to lie on the table.)

Mr GRAHAM submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

On page 3, between lines 9 and 10, insert:

''(C) DEPENDENT CARE EMPLOYMENT-RELATED EXPENSES.—Such term shall include employment-related expenses (as defined in section 21(b)(2)) for the care of a designated beneficiary who is a qualifying individual under section 21(b)(1)(A) with respect to the individual incurring such expenses. No credit shall be allowed under section 21 with respect to employment-related expenses paid out of the account to the extent such payment is not included in gross income by reason of subsection (d)(2).''

MOSELEY-BRAUN AMENDMENTS NOS. 1532–1533

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted two amendments intended to be proposed by her to the bill, H.R. 2646, supra; as follows:

AMENDMENT NO. 1532

Beginning on page 2, strike line 3 and all that follows through page 6, line 10, and insert the following:

SECTION 1. PROVISION OF ASSISTANCE FOR CONSTRUCTION AND RENOVATION OF EDUCATIONAL FACILITIES.

(a) SHORT TITLE.—This section may be cited as the ''Educational Facilities Improvement Act''.

(b) AMENDMENT.—Title XII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8501 et seq.) is amended—

(1) by repealing sections 12002 and 12003;

(2) by redesignating sections 12001 and 12004 through 12013, as sections 12101 and 12102 through 12111, respectively;

(3) by inserting after the title heading the following:

''SEC. 12001. FINDINGS.

''The Congress finds the following:

''(1) The General Accounting Office performed a comprehensive survey of the Nation's public elementary and secondary school facilities, and found severe levels of disrepair in all areas of the United States.

''(2) The General Accounting Office concluded more than 14,000,000 children attend schools in need of extensive repair or replacement. Seven million children attend schools with life safety code violations. Twelve million children attend schools with leaky roofs.

''(3) The General Accounting Office found the problem of crumbling schools transcends demographic and geographic boundaries. At 38 percent of urban schools, 30 percent of rural schools, and 29 percent of suburban schools, at least one building is in need of extensive repair or should be completely replaced.

''(4) The condition of school facilities has a direct affect on the safety of students and teachers, and on the ability of students to learn.

''(5) Academic research has proven a direct correlation between the condition of school facilities and student achievement. At Georgetown University, researchers found students assigned to schools in poor condition can be expected to fall 10.9 percentage points below those in buildings in excellent condition. Similar studies have demonstrated up to a 20 percent improvement in test scores when students were moved from a poor facility to a new facility.

''(6) The General Accounting Office found most schools are not prepared to incorporate modern technology into the classroom. Forty-six percent of schools lack adequate electrical wiring to support the full-scale use of technology. More than a third of schools lack the requisite electrical power. Fifty-six percent of schools have insufficient phone lines for modems.

''(7) The Department of Education reported that elementary and secondary school enrollment, already at a record high level, will continue to grow during the period between 1996 and 2000, and that in order to accommodate this growth, the United States will need to build an additional 6,000 schools over this time period.

''(8) The General Accounting Office found it will cost $112,000,000,000 just to bring schools up to good, overall condition, not including the cost of modernizing schools so the schools can utilize 21st century technology, nor including the cost of expansion to meet record enrollment levels.

''(9) State and local financing mechanisms have proven inadequate to meet the challenges facing today's aging school facilities. Large numbers of local educational agencies have difficulties securing financing for school facility improvement.

''(10) The Federal Government can support elementary and secondary school facilities, and can leverage additional funds for the improvement of elementary and secondary school facilities.

''SEC. 12002. PURPOSE.

''The purpose of this title is to help State and local authorities improve the quality of education at their public schools through the provision of Federal funds to enable the State and local authorities to meet the cost associated with the improvement of school facilities within their jurisdictions.

''PART A—GENERAL INFRASTRUCTURE IMPROVEMENT GRANT PROGRAM'';

and

(4) by adding at the end the following:

''PART B—CONSTRUCTION AND RENOVATION BOND SUBSIDY PROGRAM

''SEC. 12201. DEFINITIONS.

''As used in this part:

''(1) EDUCATIONAL FACILITY.—The term 'educational facility' has the meaning given the term 'school' in section 12110.

''(2) LOCAL AREA.—The term 'local area' means the geographic area served by a local educational agency.

''(3) LOCAL BOND AUTHORITY.—The term 'local bond authority' means—

''(A) a local educational agency with authority to issue a bond for construction or renovation of educational facilities in a local area; and

''(B) a political subdivision of a State with authority to issue such a bond for an area including a local area.

''(4) POVERTY LINE.—The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with

section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))) applicable to a family of the size involved.

''(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 12202. AUTHORIZATION OF PROGRAM.

''(a) PROGRAM AUTHORITY.—Of the amount appropriated under section 12210 for a fiscal year and not reserved under subsection (b), the Secretary shall use—

''(1) 33 percent of such amount to award grants to local bond authorities for not more than 125 eligible local areas as provided for under section 12203; and

''(2) 67 percent of such amount to award grants to States as provided for under section 12204.

''(b) SPECIAL RULE.—The Secretary may reserve—

''(1) not more than 1.5 percent of the amount appropriated under section 12210 to provide assistance to Indian schools in accordance with the purpose of this title;

''(2) not more than 0.5 percent of the amount appropriated under section 12210 to provide assistance to Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau to carry out the purpose of this title; and

''(3) not more than 0.1 percent of the amount appropriated under section 12210 to carry out section 12209.

"SEC. 12203. DIRECT GRANTS TO LOCAL BOND AUTHORITIES.

''(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(1) to eligible local bond authorities to provide assistance for construction or renovation of educational facilities in a local area.

''(b) USE OF FUNDS.—The local bond authority shall use amounts received through a grant made under section 12202(a)(1) to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

''(c) ELIGIBILITY AND DETERMINATION.—

''(1) ELIGIBILITY.—To be eligible to receive a grant under section 12202(a)(1) for a local area, a local bond authority shall demonstrate the capacity to issue a bond for an area that includes 1 of the 125 local areas for which the Secretary has made a determination under paragraph (2).

''(2) DETERMINATION.—

''(A) MANDATORY.—The Secretary shall make a determination of the 100 local areas that have the highest numbers of children who are—

''(i) aged 5 to 17, inclusive; and

''(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

''(B) DISCRETIONARY.—The Secretary may make a determination of 25 local areas, for which the Secretary has not made a determination under subparagraph (A), that have extraordinary needs for construction or renovation of educational facilities that the local bond authority serving the local area is unable to meet.

''(d) APPLICATION.—To be eligible to receive a grant under section 12202(a)(1), a local bond authority shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) an assurance that the application was developed in consultation with parents and classroom teachers;

''(2) information sufficient to enable the Secretary to make a determination under subsection (c)(2) with respect to such local authority;

''(3) a description of the architectural, civil, structural, mechanical, or electrical construction or renovation to be supported with the assistance provided under this part;

''(4) a cost estimate of the proposed construction or renovation;

''(5) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which assistance is requested under this part;

''(6) a description of how activities supported with funds provided under this part will promote energy conservation; and

''(7) such other information and assurances as the Secretary may require.

''(e) AWARD OF GRANTS.—

''(1) IN GENERAL.—In awarding grants under section 12202(a)(1), the Secretary shall give preference to a local bond authority based on—

''(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks a grant (as appropriate) meets the criteria described in section 12103(a);

''(B) the extent to which the educational facility is overcrowded; and

''(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

''(2) AMOUNT OF ASSISTANCE.—

''(A) IN GENERAL.—In determining the amount of assistance for which local bond authorities are eligible under section 12202(a)(1), the Secretary shall—

''(i) give preference to a local bond authority based on the criteria specified in paragraph (1); and

''(ii) consider—

''(I) the amount of the cost estimate contained in the application of the local bond authority under subsection (d)(4);

''(II) the relative size of the local area several by the local bond authority; and

''(III) any other factors determined to be appropriate by the Secretary.

''(B) MAXIMUM AMOUNT OF ASSISTANCE.—A local bond authority shall be eligible for assistance under section 12202(a)(1) in an amount that does not exceed the appropriate percentage under section 12204(f)(3) of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area involved.

"SEC. 12204. GRANTS TO STATES.

''(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(2) to each eligible State to provide assistance to the State, or local bond authorities in the State, for construction and renovation of educational facilities in local areas.

''(b) USE OF FUNDS.—The State shall use amounts received through a grant made under section 12202(a)(2)—

''(1) to pay a portion of the interest costs applicable to any State bond issued to finance an activity described in section 12205 with respect to the local areas; or

''(2) to provide assistance to local bond authorities in the State to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local areas.

''(c) AMOUNT OF GRANT TO STATE.—

''(1) IN GENERAL.—From the amount available for grants under section 12202(a)(2), the Secretary shall award a grant to each eligible State that is equal to the total of—

''(A) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under part A of title I for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such part for such year; and

''(B) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title VI for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such title for such year.

''(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—For the purpose of paragraph (1) the term 'eligible local educational agency' means a local educational agency that does not serve a local area for which an eligible local bond authority received a grant under section 12203.

''(d) STATE APPLICATIONS REQUIRED.—To be eligible to receive a grant under section 12202(a)(2), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall contain—

''(1) a description of the process the State will use to determine which local bond authorities will receive assistance under subsection (b)(2).

''(2) an assurance that grant funds under this section will be used to increase the amount of school construction or renovation in the State for a fiscal year compared to such amount in the State for the preceding fiscal years.

''(e) ADMINISTERING AGENCY.—

''(1) IN GENERAL.—The State agency with authority to issue bonds for the construction or renovation of educational facilities, or with the authority to otherwise finance such construction or renovation, shall administer the amount received through the grant.

''(2) SPECIAL RULE.—If no agency described in paragraph (1) exists, or if there is more than one such agency, then the chief executive officer of the State and the chief State school officer shall designate a State entity or individual to administer the amounts received through the grant.

''(f) ASSISTANCE TO LOCAL BOND AUTHORITIES.—

''(1) IN GENERAL.—To be eligible to receive assistance from a State under this section, a local bond authority shall prepare and submit to the State agency designated under subsection (e) an application at such time, in such manner, and containing such information as the State agency may require, including the information described in section 12203(d).

''(2) CRITERIA.—In awarding grants under this section, the State agency shall give preference to a local bond authority based on—

''(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks the grant (as appropriate) meets the criteria described in section 12103(a);

''(B) the extent to which the educational facility is overcrowded; and

''(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

''(3) AMOUNT OF ASSISTANCE.—A local bond authority seeking assistance for a local area served by a local educational agency described in—

''(A) clause (i)(I) or clause (ii)(I) of section 1125(c)(2)(A), shall be eligible for assistance

in an amount that does not exceed 10 percent;

''(B) clause (i)(II) or clause (ii)(II) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 20 percent;

''(C) clause (i)(III) or clause (ii)(III) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 30 percent;

''(D) clause (i)(IV) or clause (ii)(IV) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 40 percent; and

''(E) clause (i)(V) or clause (ii)(V) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 50 percent;

of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

''(g) ASSISTANCE TO STATE.—

''(1) IN GENERAL.—If a State issues a bond to finance an activity described in section 12205 with respect to local areas, the State shall be eligible for assistance in an amount that does not exceed the percentage calculated under the formula described in paragraph (2) of the interest costs applicable to the State bond with respect to the local areas.

''(2) FORMULA.—The Secretary shall develop a formula for determining the percentage referred to in paragraph (1). The formula shall specify that the percentage shall consist of a weighted average of the percentages referred to in subparagraphs (A) through (E) of subsection (f)(3) for the local areas involved.

''SEC. 12205. AUTHORIZED ACTIVITIES.

''An activity described in this section is a project of significant size and scope that consists of—

''(1) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or light equipment;

''(2) an activity to increase physical safety at the educational facility involved;

''(3) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

''(4) an activity to improve the energy efficiency of the educational facility involved;

''(5) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

''(6) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

''(7) the construction of new schools to meet the needs imposed by enrollment growth; and

''(8) any other activity the Secretary determines achieves the purpose of this title.

''SEC. 12206. STATE GRANT WAIVERS.

''(a) WAIVER FOR STATE ISSUANCE OF BOND.—

''(1) IN GENERAL.—A State that issues a bond described in section 12204(b)(1) with respect to a local area may request that the Secretary waive the limits described in section 12204(f)(3) for the local area, in calculating the amount of assistance the State may receive under section 12204(g). The State may request the waiver only if no local entity is able, for one of the reasons described in subparagraphs (A) through (F) of paragraph (2), to issue bonds on behalf of the local area. Under such a waiver, the Secretary may permit the State to use amounts received through a grant made under section 12202(a)(2) to pay for not more than 80 percent of the interest costs applicable to the State bond with respect to the local area.

''(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that—

''(A) the local bond authority serving the local area has reached a limit on its borrowing authority as a result of a debt ceiling or property tax cap;

''(B) the local area has a high percentage of low-income residents, or an unusually high property tax rate;

''(C) the demographic composition of the local area will not support additional school spending;

''(D) the local bond authority has a history of failed attempts to pass bond referenda;

''(E) the local area contains a significant percentage of Federally-owned land that is not subject to local taxation; or

''(F) for another reason, no local entity is able to issue bonds on behalf of the local area.

''(b) WAIVER FOR OTHER FINANCING SOURCES.—

''(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a local bond authority to permit the State to provide assistance to the local bond authority to finance construction or renovation by means other than through the issuance of bonds.

''(2) USE OF FUNDS.—A State that receives a waiver granted under this subsection may provide assistance to a local bond authority in accordance with the criteria described in section 12204(f)(2) to enable the local bond authority to repay the costs incurred by the local bond authority in financing an activity described in section 12205. The local bond authority shall be eligible to receive the amount of such assistance that the Secretary estimates the local bond authority would be eligible to receive under section 12204(f)(3) if the construction or renovation were financed through the issuance of a bond.

''(3) MATCHING REQUIREMENT.—The State shall make available to the local bond authority (directly or through donations from public or private entities) non-Federal contributions in an amount equal to not less than $1 for every $1 of Federal funds provided to the local bond authority through the grant.

''(c) WAIVER FOR OTHER USES.—

''(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a State to permit the State to carry out activities that achieve the purpose of this title.

''(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that the use of assistance provided under the waiver—

''(A) will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation; and

''(B) will be used to fund activities that are effective in carrying out the activities described in section 12205, such as—

''(i) the capitalization of a revolving loan fund for such construction or renovation;

''(ii) the use of funds for reinsurance or guarantees with respect to the financing of such construction or renovation;

''(iii) the creation of a mechanism to leverage private sector resources for such construction or renovation;

''(iv) the capitalization of authorities similar to State Infrastructure Banks to leverage additional funds for such construction or renovation; or

''(v) any other activity the Secretary determines achieves the purpose of this title.

''(d) LOCAL BOND AUTHORITY WAIVER.—

''(1) IN GENERAL.—A local bond authority may request the Secretary waive the use requirements of section 12203(b) for a local head authority to permit the authority to finance construction or renovation of educational facilities by means other than through use of bonds.

''(2) DEMONSTRATION.—To be eligible to receive a waiver under this subsection, a local bond authority shall demonstrate that the amounts made available through a grant under the waiver will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation.

''(e) REQUEST FOR WAIVER.—A State or local bond authority that desires a waiver under this section shall submit a waiver request to the Secretary that—

''(1) identifies the type of waiver requested;

''(2) with respect to a waiver described in subsection (a), (c), or (d), makes the demonstration described in subsection (a)(2), (c)(2), or (d)(2), respectively;

''(3) describes the manner in which the waiver will further the purpose of this title; and

''(4) describes the use of assistance provided under such waiver.

''(f) ACTION BY SECRETARY.—The Secretary shall make a determination with respect to a request submitted under subsection (d) not later than 90 days after the date on which such request was submitted.

''(g) GENERAL REQUIREMENTS.—

''(1) STATES.—In the case of a waiver request submitted by a State under this section, the State shall—

''(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

''(B) submit the comments to the Secretary; and

''(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

''(2) LOCAL BOND AUTHORITIES.—In the case of a waiver request submitted by a local bond authority under this section, the local bond authority shall—

''(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

''(B) submit the comments to the Secretary; and

''(C) provide notice and information to the public regarding the waiver request in the manner that the applying local bond authority customarily provides similar notices and information to the public.

''SEC. 12207. GENERAL PROVISIONS.

''(a) FAILURE TO ISSUE BONDS.—

''(1) STATES.—If a State that receives assistance under this part fails to issue a bond for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12204, during the first fiscal year following the date of repayment.

''(2) LOCAL BOND AUTHORITIES AND LOCAL AREAS.—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance—

''(A) in the case of assistance received under section 12202(a)(1), shall be repaid to

the Secretary and made available as provided for under section 12203; and

''(B) in the case of assistance received under section 12202(a)(2), shall be repaid to the State and made available as provided for under section 12204.

''(b) LIABILITY OF THE FEDERAL GOVERNMENT.—The Secretary shall not be liable for any debt incurred by a State or local bond authority for which assistance is provided under this part. If such assistance is used by a local educational agency to subsidize a debt other than the issuance of a bond, the Secretary shall have no obligation to repay the lending institution to whom the debt is owed if the local educational agency defaults.

''SEC. 12208. FAIR WAGES.

''The provisions of section 12107 shall apply with respect to all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part using assistance provided under this part.

''SEC. 12209. REPORT.

''From amounts reserved under section 12202(b)(3) for each fiscal year the Secretary shall—

''(1) collect such data as the Secretary determines necessary at the school, local, and State levels;

''(2) conduct studies and evaluations, including national studies and evaluations, in order to—

''(A) monitor the progress of activities supported with funds provided under this part; and

''(B) evaluate the state of United States educational facilities; and

''(3) report to the appropriate committees of Congress regarding the findings of the studies and evaluations described in paragraph (2).

''SEC. 12210. FUNDING.

''(a) IN GENERAL.—There are appropriated to carry out this part $827,000,000 for fiscal year 1998, $1,388,000,000 for fiscal year 1999, $608,000,000 for fiscal year 2000, $141,000,000 for fiscal year 2001, and $148,000,000 for fiscal year 2002.

''(b) ENTITLEMENT.—Subject to subsection (a), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

''(c) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended.''.

(c) CONFORMING AMENDMENTS.—

(1) CROSS REFERENCES.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by subsection (b)(3)) is amended—

(A) in section 12102(a) (as redesignated by subsection (b)(2))—

(i) in paragraph (1)—

(I) by striking ''12013'' and inserting ''12111'';

(II) by striking ''12005'' and inserting ''12103''; and

(III) by striking ''12007'' and inserting ''12105''; and

(ii) in paragraph (2), by striking ''12013'' and inserting ''12111''; and

(B) in section 12110(3)(C) (as redesignated by subsection (b)(2)), by striking ''12006'' and inserting ''12104''.

(2) CONFORMING AMENDMENTS.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by subsection (b)(3)) (20 U.S.C. 8501 et seq.) is further amended—

(A) in section 12101 (as redesignated by subsection (b)(2)), by striking ''This title'' and inserting ''This part''; and

(B) in sections 12102(a)(2), 12102(b)(1), 12103(a), 12103(b), 12103(b)(2), 12103(c), 12103(d), 12104(a), 12104(b)(2), 12104(b)(3), 12104(b)(4), 12104(b)(6), 12104(b)(7), 12105(a), 12105(b), 12106(a), 12106(b), 12106(c), 12106(c)(1), 12106(c)(7), 12106(e), 12107, 12108(a)(1), 12108(a)(2), 12108(b)(1), 12108(b)(2), 12108(b)(3), 12108(b)(4), 12109(2)(A), and 12110 (as redesignated by subsection (b)(2)), by striking ''this title'' each place it appears and inserting ''this part''.

SEC. 2. OVERRULING OF SCHMIDT BAKING COMPANY CASE.

AMENDMENT NO. 1533

Beginning on page 2, line 3, strike all through page 6, line 9, and insert:

SECTION 1. PURPOSE.

It is the purpose of this Act to help school districts to improve their crumbling and overcrowded school facilities through the use of Federal tax credits.

SEC. 2. TAX CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to general business credits) is amended by adding at the end the following new section:

''SEC. 45D. CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

''(a) IN GENERAL.—For purposes of section 38, the amount of the school construction credit determined under this section for an eligible taxpayer for any taxable year with respect to an eligible school construction project shall be an amount equal to the lesser of—

''(1) the applicable percentage of the qualified school construction costs, or

''(2) the excess (if any) of—

''(A) the taxpayer's allocable school construction amount with respect to such project under subsection (d), over

''(B) any portion of such allocable amount used under this section for preceding taxable years.

''(b) ELIGIBLE TAXPAYER; ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any person which—

''(A) has entered into a contract with a local educational agency for the performance of construction or related activities in connection with an eligible school construction project, and

''(B) has received an allocable school construction amount with respect to such contract under subsection (d).

''(2) ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—

''(A) IN GENERAL.—The term 'eligible school construction project' means any project related to a public elementary school or secondary school that is conducted for 1 or more of the following purposes:

''(i) Construction of school facilities in order to ensure the health and safety of all students, which may include—

''(I) the removal of environmental hazards,

''(II) improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure, and

''(III) building improvements that increase school safety.

''(ii) Construction activities needed to meet the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

''(iii) Construction activities that increase the energy efficiency of school facilities.

''(iv) Construction that facilitates the use of modern educational technologies.

''(v) Construction of new school facilities that are needed to accommodate growth in school enrollments.

''(vi) Such other construction as the Secretary of Education determines appropriate.

''(B) SPECIAL RULES.—For purposes of this paragraph—

''(i) the term 'construction' includes reconstruction, renovation, or other substantial rehabilitation, and

''(ii) an eligible school construction project shall not include the costs of acquiring land (or any costs related to such acquisition).

''(c) QUALIFIED SCHOOL CONSTRUCTION COSTS; APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified school construction costs' means the aggregate amounts paid to an eligible taxpayer during the taxable year under the contract described in subsection (b)(1).

''(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, in the case of an eligible school construction project related to a local educational agency, the higher of the following percentages:

''(A) If the local educational agency has a percentage or number of children described in clause (i)(I) or (ii)(I) of section 1125(c)(2)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6335(c)(2)(A)), the applicable percentage is 10 percent.

''(B) If the local educational agency has a percentage or number of children described in clause (i)(II) or (ii)(II) of such section, the applicable percentage is 15 percent.

''(C) If the local educational agency has a percentage or number of children described in clause (i)(III) or (ii)(III) of such section, the applicable percentage is 20 percent.

''(D) If the local educational agency has a percentage or number of children described in clause (i)(IV) or (ii)(IV) of such section, the applicable percentage is 25 percent.

''(E) If the local educational agency has a percentage or number of children described in clause (i)(V) or (ii)(V) of such section, the applicable percentage is 30 percent.

''(d) ALLOCABLE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—Subject to paragraph (3), a local educational agency may allocate to any person a school construction amount with respect to any eligible school construction project.

''(2) TIME FOR MAKING ALLOCATION.—An allocation shall be taken into account under paragraph (1) only if the allocation is made at the time the contract described in subsection (b)(1) is entered into (or such later time as the Secretary may by regulation allow).

''(3) COORDINATION WITH STATE PROGRAM.—A local educational agency may not allocate school construction amounts for any fiscal year—

''(A) which in the aggregate exceed the amount of the State school construction ceiling allocated to such agency for such fiscal year under subsection (e), or

''(B) if such allocation is inconsistent with any specific allocation required by the State or this section.

''(e) STATE CEILINGS AND ALLOCATION.—

''(1) IN GENERAL.—A State educational agency shall allocate to local educational agencies within the State for any fiscal year a portion of the State school construction ceiling for such year. Such allocations shall be consistent with the State application which has been approved under subsection (f) and with any requirement of this section.

''(2) STATE SCHOOL CONSTRUCTION CEILING.—

''(A) IN GENERAL.—The State school construction ceiling for any State for any fiscal year shall be an amount equal to the State's

allocable share of the national school construction amount.

''(B) STATE'S ALLOCABLE SHARE.—The State's allocable share of the national school construction amount for a fiscal year shall bear the same relation to the national school construction amount for the fiscal year as the amount the State received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received by all States under such section for such preceding fiscal year.

''(C) NATIONAL SCHOOL CONSTRUCTION AMOUNT.—The national school construction amount for any fiscal year is the lesser of—

''(i) in the case of—

''(I) fiscal year 1998, $827,000,000,

''(II) fiscal year 1999, $1,388,000,000, plus any amount not allocated under this section in any preceding fiscal year,

''(III) fiscal year 2000, $608,000,000, plus any such amount,

''(IV) fiscal year 2001, $141,000,000, plus any such amount, and

''(V) fiscal year 2002, $148,000,000, plus any such amount, or

''(ii) the amount made available for such year under the School Infrastructure Improvement Trust Fund established under section 9512,

reduced by any amount described in paragraph (3).

''(3) SPECIAL ALLOCATIONS FOR INDIAN TRIBES AND TERRITORIES.—

''(A) ALLOCATION TO INDIAN TRIBES.—The national school construction amount under paragraph (2)(C) shall be reduced by 1.5 percent for each fiscal year and the Secretary of Interior shall allocate such amount among Indian tribes according to their respective need for assistance under this section.

''(B) ALLOCATION TO TERRITORIES.—The national school construction amount under paragraph (2)(C) shall be reduced by 0.5 percent for each fiscal year and the Secretary of Education shall allocate such amount among the territories according to their respective need for assistance under this section.

''(4) REALLOCATION.—If the Secretary of Education determines that a State is not making satisfactory progress in carrying out the State's plan for the use of funds allocated to the State under this section, the Secretary may reallocate all or part of the State school construction ceiling to 1 or more other States that are making satisfactory progress.

''(e) STATE APPLICATION.—

''(1) IN GENERAL.—A State educational agency shall not be eligible to allocate any amount to a local educational agency for any fiscal year unless the agency submits to the Secretary of Education (and the Secretary approves) an application containing such information as the Secretary may require, including—

''(A) an estimate of the overall condition of school facilities in the State, including the projected cost of upgrading schools to adequate condition;

''(B) an estimate of the capacity of the schools in the State to house projected student enrollments, including the projected cost of expanding school capacity to meet rising student enrollment;

''(C) the extent to which the schools in the State have the basic infrastructure elements necessary to incorporate modern technology into their classrooms, including the projected cost of upgrading school infrastructure to enable the use of modern technology in classrooms;

''(D) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students; and

''(E) an identification of the State agency that will allocate credit amounts to local educational agencies within the State.

''(2) SPECIFIC ITEMS IN ALLOCATION.—The State shall include in the State's application the process by which the State will allocate the credits to local educational agencies within the State. The State shall consider in its allocation process the extent to which—

''(A) the school district served by the local educational agency has—

''(i) a high number or percentage of the total number of children aged 5 to 17, inclusive, in the State who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

''(ii) a high percentage of the total number of low-income residents in the State;

''(B) the local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the eligible school construction project without assistance;

''(C) the local area makes an unusually high local tax effort, or has a history of failed attempts to pass bond referenda;

''(D) the local area contains a significant percentage of federally owned land that is not subject to local taxation;

''(E) the threat the condition of the physical facility poses to the safety and well-being of students;

''(F) there is a demonstrated need for the construction, reconstruction, renovation, or rehabilitation based on the condition of the facility;

''(G) the extent to which the facility is overcrowded; and

''(H) the extent to which assistance provided will be used to support eligible school construction projects that would not otherwise be possible to undertake.

''(3) IDENTIFICATION OF AREAS.—The State shall include in the State's application the process by which the State will identify the areas of greatest needs (whether those areas are in large urban centers, pockets of rural poverty, fast-growing suburbs, or elsewhere) and how the State intends to meet the needs of those areas.

''(4) ALLOCATIONS ON BASIS OF APPLICATION.—The Secretary of Education shall evaluate applications submitted under this subsection and shall approve any such application which meets the requirements of this section.

''(g) REQUIRED ALLOCATIONS.—Notwithstanding any process for allocation under a State application under subsection (f), in the case of a State which contains 1 or more of the 100 school districts within the United States which contains the largest number of poor children (as determined by the Secretary of Education), the State shall allocate each fiscal year to the local educational agency serving such districts that portion of the State school construction ceiling which bears the same ratio to such ceiling as the number of children in such district for the preceding fiscal year who are counted for purposes of section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)) bears to the total number of children in such State who are so counted.

''(h) DEFINITIONS.—For purposes of this section—

''(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms 'elementary school', 'local educational agency', 'secondary school', and 'State educational agency' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(2) TERRITORIES.—The term 'territories' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.''

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the school construction credit determined under section 45D(a).''

(2) TRANSITION RULE.—Section 39(d) of such Code is amended by adding at the end the following new paragraph:

''(8) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the school construction credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''

(c) ESTABLISHMENT OF SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 9512. SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'School Infrastructure Improvement Trust Fund', consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There is appropriated to the Trust Fund for fiscal year—

''(1) 1998, $827,000,000,

''(2) 1999, $1,388,000,000,

''(3) 2000, $608,000,000,

''(4) 2001, $141,000,000, and

''(5) 2002, $148,000,000.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be transferred to the general fund of the Treasury at such times as the Secretary determines appropriate to offset any decrease in Federal revenues by reason of credits allowed under section 38 which are attributable to the school construction credit determined under section 45D.''

(2) CONFORMING AMENDMENT.—The table of section for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

''Sec. 9512. School Infrastructure Improvement Trust Fund.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45D. Credit for public elementary and secondary school construction.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

LOTT AMENDMENT NO. 1534

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike all after ''**section**'' and insert ''**1. short title**.

This Act may be cited as the ''Education Savings Act for Public and Private Schools''.

SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) QUALIFIED EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified education expenses' means—

''(i) qualified higher education expenses (as defined in section 529(e)(3)), and

''(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)) but only with respect to amounts in the account which are attributable to contributions for any taxable year ending before January 1, 2001, and earnings on such contributions.

Such expenses shall be reduced as provided in section 25A(g)(2).

''(B) QUALIFIED STATE TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account.''.

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

''(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, computer equipment (including related software and services) and other equipment, transportation, and supplementary expenses required for the enrollment or attendance of the designated beneficiary of the trust at a public, private, or religious school.

''(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

''(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.''.

(3) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 of such Code are each amended by striking ''higher'' each place it appears in the text and heading thereof.

(b) TEMPORARY INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) of the Internal Revenue Code of 1986 is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(2) CONTRIBUTION LIMIT.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

''(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means $2,500 ($500 in the case of any taxable year ending after December 31, 2000).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) of such Code is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(B) Section 4973(e)(1)(A) of such Code is amended by striking ''$500'' and inserting ''the contribution limit (as defined in section 530(b)(4)) for such taxable year''.

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

''The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).''.

(d) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Paragraph (1) of section 530(c) of the Internal Revenue Code of 1986 is amended by striking ''The maximum amount which a contributor'' and inserting ''In the case of a contributor who is an individual, the maximum amount the contributor''.

(e) EFFECTIVE DATE; REFERENCES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

(2) REFERENCES.—Any reference in this section to any section of the Internal Revenue Code of 1986 shall be a reference to such section as added by the Taxpayer Relief Act of 1997.

SEC. 3. OVERRULING OF SCHMIDT BAKING COMPANY CASE.

(a) IN GENERAL.—The Internal Revenue Code of 1986 shall be applied without regard to the result reached in the case of Schmidt Baking Company, Inc. v. Commissioner of Internal Revenue, 107 T.C. 271 (1996).

(b) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe regulations to reflect subsection (a).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (a) and (b) shall apply to taxable years ending after October 8, 1997.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

McCONNELL (AND GRAHAM) AMENDMENT NO. 1535

(Ordered to lie on the table.)

Mr. McCONNELL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill, H.R. 2646, supra; as follows:

At the appropriate place in the bill, insert the following new sections:

SEC. ___. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED STATE TUITION PROGRAMS.

(a) ALLOWANCE OF EXCLUSION.—

(1) IN GENERAL.—Subparagraph (B) of section 529(c)(3) of the Internal Revenue Code of 1986 (relating to distributions) is amended to read as follows:

''(B) QUALIFIED HIGHER EDUCATION DISTRIBUTIONS.—In the case of a qualified higher education distribution under subsection (f)—

''(i) subparagraph (A) shall not apply, and

''(ii) no amount shall be includible in gross income with respect to such distribution.''

(2) QUALIFIED HIGHER EDUCATION DISTRIBUTION DEFINED.—Section 529 of such Code (relating to qualified State tuition programs) is amended by adding at the end the following new subsection:

''(f) QUALIFIED HIGHER EDUCATION DISTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified higher education distribution' means any distribution (or portion thereof) which constitutes a payment directly to an eligible educational institution for qualified higher education expenses of the designated beneficiary for enrollment or attendance at such institution.

''(2) ROOM AND BOARD FOR STUDENTS LIVING OFF CAMPUS.—

''(A) IN GENERAL.—The term 'qualified higher education distribution' includes distributions not described in paragraph (1) to the extent that the amount of such distributions for the taxable year does not exceed the amount treated as qualified higher education expenses of the designated beneficiary under subsection (e)(3)(B)(i)(II).

''(B) RESTRICTIONS.—Subparagraph (A) shall only apply with respect to distributions for any academic period if—

''(i) distributions described in paragraph (1) are made for such period for expenses other than room and board, and

''(ii) the designated beneficiary certifies to the qualified State tuition program that the beneficiary resides in a dwelling unit not operated or maintained by an eligible educational institution.

''(3) EXCLUSION ELECTIVE; LIMITATION TO ONE PROGRAM.—

''(A) ELECTION.—This subsection shall apply for a taxable year only if the designated beneficiary elects its application.

''(B) LIMITATION TO ONE PROGRAM.—This subsection shall apply only to distributions from the qualified State tuition program designated by the beneficiary in the first election taking effect under subparagraph (A). Such designation, once made, shall be irrevocable.

''(4) AGGREGATION.—All distributions from the qualified State tuition program designated under paragraph (3)(B) shall be treated as 1 distribution for purposes of this subsection.''

(3) ROOM AND BOARD.—Section 529(e)(3)(B) of such Code is amended to read as follows:

''(B) ROOM AND BOARD INCLUDED FOR STUDENTS WHO ARE AT LEAST HALF-TIME.—

''(i) IN GENERAL.—In the case of a designated beneficiary who is an eligible student (as defined in such section 25A(b)(3)) for any academic period, the term 'qualified higher education expenses' shall include—

''(I) amounts paid directly to an eligible educational institution for room and board furnished to the beneficiary during such academic period, or

''(II) if the beneficiary is not residing in a dwelling unit operated or maintained by the eligible educational institution, reasonable costs incurred by the beneficiary for room and board during such academic period.

''(ii) LIMITATIONS ON OFF-CAMPUS ROOM AND BOARD.—

''(I) DOLLAR LIMIT.—The aggregate costs which may be taken into account under clause (i)(II) for any taxable year shall not exceed $4,500.

''(II) NO MORE THAN 4 ACADEMIC YEARS TAKEN INTO ACCOUNT.—Costs may be taken into account under clause (i)(II) only for that number of academic periods as is equivalent to 4 academic years. Such number shall be reduced by the number of academic periods for which amounts were previously taken into account under clause (i)(I).''

(b) LIMIT ON AGGREGATE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 529(b)(7) of the Internal Revenue Code of 1986 is amended to read as follows:

''(7) AGGREGATE LIMIT ON CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program if it allows aggregate contributions (including rollover contributions) on behalf of a designated beneficiary to exceed $35,200.''

(2) TAX ON EXCESS CONTRIBUTIONS.—

(A) IN GENERAL.—Section 4973 of such Code is amended by adding at the end the following new subsection:

''(g) EXCESS CONTRIBUTIONS TO QUALIFIED STATE TUITION PROGRAMS.—

''(1) IN GENERAL.—In the case of a designated beneficiary under 1 or more qualified State tuition programs (as defined in section 529(b)), the amount by which the contributions on behalf of such beneficiary for such taxable year, when added to the aggregate contributions on behalf of such beneficiary for all preceding taxable years, exceeds the dollar limit in effect under section 529(b)(7) for calendar year in which the taxable year begins.

''(2) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

''(A) Any contribution which is distributed out of the qualified State tuition program in a distribution to which section 529(g)(2) applies.

''(B) Any rollover contribution.''

(B) CONFORMING AMENDMENTS.—Section 4973(a) is amended—

(i) by striking ''or'' at the end of paragraph (3), by inserting ''or'' at the end of paragraph (5), and by inserting after paragraph (4) the following new paragraph:

''(5) a qualified State tuition program (as defined in section 529),'',

(ii) by striking ''accounts or annuities'' and inserting ''accounts, annuities, or programs'', and

(iii) by striking ''account or annuity'' and inserting ''account, annuity, or program''.

(c) COMPLIANCE PROVISIONS.—

(1) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—

(A) IN GENERAL.—Section 529 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(g) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

''(1) IN GENERAL.—The tax imposed by section 530(d)(4) shall apply to payments and distributions from qualified State tuition programs in the same manner as such tax applies to education individual retirement accounts.

''(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to a qualified tuition program to the extent that such contribution exceeds the limitation in section 4973(g) if such distribution (and the net income with respect to such excess contribution) meet requirements comparable to the requirements of section 530(d)(4)(C).''

(B) CONFORMING AMENDMENT.—Section 529(b)(3) of such Code is repealed.

(2) WITHHOLDING OF TAX ON CERTAIN DISTRIBUTIONS.—Section 529(c) is amended by adding at the end the following new paragraph:

''(6) WITHHOLDING OF TAX ON CERTAIN DISTRIBUTIONS.—

''(A) IN GENERAL.—A qualified State tuition program shall withhold from any distribution an amount equal to 15 percent of the portion of such distribution properly allocable to income on the contract (as determined under section 72).

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a distribution which—

''(i) is a qualified higher education distribution under subsection (f), or

''(ii) is exempt from the payment of the additional tax imposed by subsection (g).''

(3) DISTRIBUTIONS REQUIRED IN CERTAIN CASES.—Subsection (b) of section 529 of such Code is amended by adding at the end the following new paragraph:

''(8) REQUIRED DISTRIBUTIONS.—

''(A) IN GENERAL.—A program shall be treated as a qualified State tuition program only if any balance to the credit of a designated beneficiary (if any) on the account termination date is required to be distributed within 30 days after such date to such beneficiary (or in the case of death, the estate of the beneficiary).

''(B) ACCOUNT TERMINATION DATE.—For purposes of subparagraph (A), the term 'account termination date' means whichever of the following dates is the earliest:

''(i) The date on which the designated beneficiary attains age 30.

''(ii) The date on which the designated beneficiary dies.''

(d) COST-OF-LIVING ADJUSTMENTS.—Section 529(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) COST-OF-LIVING ADJUSTMENTS.—In the case of calendar years beginning after December 31, 1998, the $32,500 amount under subsection (b)(7) and the $4,500 amount under subsection (e)(3)(B)(ii)(I) shall each be increased by an amount equal to—

''(A) such dollar amount, multiplied by,

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting '1997' for '1992' in subparagraph (B) thereof.

If any dollar amount is not a multiple of $100 after being increased under this paragraph, such amount shall be rounded to the next lowest multiple of $100.''

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1997.

(2) CONTRACT REQUIREMENTS.—The amendments made by subsections (b)(1) and (c)(3) shall apply to contracts issued after December 31, 1997.

SEC. ___. EXTENSION AND MODIFICATION OF SUBSIDIES FOR ALCOHOL FUELS.

(a) EXTENSION.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking ''2000'' each place it appears and inserting ''2007'':

(A) Section 4041(b)(2)(C) (relating to termination).

(B) Section 4041(k)(3) (relating to termination).

(C) Section 4081(c)(8) (relating to termination).

(D) Section 4091(c)(5) (relating to termination).

(2) Section 4041(m)(1)(A) of such Code (relating to certain alcohol fuels), as amended by section 907(b) of the Taxpayer Relief Act of 1997, is amended by striking ''1999'' both places it appears and inserting ''2005''.

(3) Section 6427(f)(4) of such Code (relating to termination) is amended by striking ''1999'' and inserting ''2007''.

(4) Section 40(e)(1) of such Code (relating to termination) is amended—

(A) by striking ''December 31, 2000'' and inserting ''December 31, 2007'', and

(B) by striking subparagraph (B) and inserting the following:

''(B) of any fuel for any period before January 1, 2008, during which the rate of tax under section 4081(a)(2)(A) is 4.3 cents per gallon.''.

(5) Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are amended in the effective period column by striking ''10/1/2000'' each place it appears and inserting ''10/1/2007''.

(b) MODIFICATION.—

(1) IN GENERAL.—Subsection (h) of section 40 of the Internal Revenue Code of 1986 (relating to alcohol used as fuel) is amended to read as follows:

''(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

''(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any sale or use of alcohol which is ethanol during calendar years 2001 through 2007—

''(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting 'the blender amount' for '60 cents',

''(B) subsection (b)(3) shall be applied by substituting 'the low-proof blender amount' for '45 cents' and 'the blender amount' for '60 cents', and

''(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting 'the blender amount' for '60 cents' and 'the low-proof blender amount' for '45 cents'.

''(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

In the case of any sale or use during calendar year:	The blender amount is:.	The low-proof blender amount is:
2001 or 2002	53 cents	39.26 cents
2003 or 2004	52 cents	38.52 cents
2005, 2006, or 2007.	51 cents	37.78 cents.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(b)(2) of such Code is amended—

(i) in subparagraph (A)(i), by striking ''5.4 cents'' and inserting ''the applicable blender rate'', and

(ii) by redesignating subparagraph (C), as amended by subsection (a)(2)(A), as subparagraph (D) and by inserting after subparagraph (B) the following:

''(C) APPLICABLE BLENDER RATE.—For purposes of subparagraph (A)(i), the applicable blender rate is—

''(i) except as provided in clause (ii), 5.4 cents, and

''(ii) for sales or uses during calendar years 2001 through 2007, 1/10 of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.''.

(B) Subparagraph (A) of section 4081(c)(4) of such Code is amended to read as follows:

''(A) GENERAL RULES.—

''(i) MIXTURES CONTAINING ETHANOL.—Except as provided in clause (ii), in the case of a qualified alcohol mixture which contains gasoline, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

''(I) in the case of 10 percent gasohol, the applicable blender rate (as defined in section 4041(b)(2)(A)) per gallon,

''(II) in the case of 7.7 percent gasohol, the number of cents per gallon equal to 77 percent of such applicable blender rate, and

''(III) in the case of 5.7 percent gasohol, the number of cents per gallon equal to 57 percent of such applicable blender rate.

''(ii) MIXTURES NOT CONTAINING ETHANOL.—In the case of a qualified alcohol mixture

which contains gasoline and none of the alcohol in which consists of ethanol, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

''(I) in the case of 10 percent gasohol, 6 cents per gallon,

''(II) in the case of 7.7 percent gasohol, 4.62 cents per gallon, and

''(III) in the case of 5.7 percent gasohol, 3.42 cents per gallon.''.

(C) Section 4081(c)(5) of such Code is amended by striking ''5.4 cents'' and inserting ''the applicable blender rate (as defined in section 4041(b)(2)(C))''.

(D) Section 4091(c)(1) of such Code is amended by striking ''13.4 cents'' each place it appears and inserting ''the applicable blender amount'' and by adding at the end the following new sentence: ''For purposes of this paragraph, the term 'applicable blender amount' means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2001.

DASCHLE (AND MOYNIHAN) AMENDMENTS NO. 1536–1537

(Ordered to lie on the table.)

Mr. DASCHLE (for himself and Mr. MOYNIHAN) submitted two amendments intended to be proposed by them to the bill, H.R. 2646, supra; as follows:

AMENDMENT NO. 1526

On page 6, line 5, strike ''1997.'' and insert ''1997, except that such amendments shall only take effect to the extent that—

(A) contributions to education individual retirement accounts for qualified elementary and secondary education expenses are—

(i) limited to accounts that, at the time the account is created or organized, are designated as solely for the payment of such expenses, and

(ii) not allowed for contributors who have modified adjusted gross income in excess of $75,000 and are ratably reduced to zero for contributors who have modified adjusted gross income between $60,000 and $75,000,

(B) contributions to education individual retirement accounts in excess of $500 for any taxable year may be made only to accounts described in subparagraph (A)(i),

(C) no contributions may be made to accounts described in subparagraph (A)(i) for taxable years ending after December 31, 2002,

(D) the modified adjusted gross income limitation shall apply to all contributors but contributors made by a person other than the taxpayer with respect to whom a deduction is allowable under section 151(c)(1) for a designated beneficiary shall be treated as having been made by such taxpayer, and

(E) expenses for computer and other equipment, transportation, and supplementary items are allowed tax-free only if required or provided by the school.''

AMENDMENT NO. 1537

Strike section 2 and insert:

SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) QUALIFIED EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified education expenses' means—

''(i) qualified higher education expenses (as defined in section 529(e)(3)), and

''(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)), but only if the account is, at the time the account is created or organized, designated solely for payment of qualified elementary and secondary education expenses of the designated beneficiary.

Such expenses shall be reduced as provided in section 25A(g)(2).

''(B) QUALIFIED STATE TUITION PROGRAMS.—Except in the case of an account described in subparagraph (A)(ii), such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account.''

(2) ADJUSTED GROSS INCOME LIMITATION.—Section 530(c) of such Code is amended by redesignating paragraph (2) as paragraph (4) and by inserting after paragraph (1) the following:

''(2) SPECIAL RULE FOR ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Notwithstanding paragraph (1), in the case of an account designated under subsection (b)(2)(A)(ii), the maximum amount which a contributor could otherwise make to an account under this section shall be reduced by an amount which bears the same ratio to such maximum amount as—

''(A) the excess of—

''(i) the contributor's modified adjusted gross income for such taxable year, over

''(ii) $60,000, bears to

''(B) $15,000.

''(3) CONTRIBUTIONS TREATED AS MADE BY INDIVIDUAL ELIGIBLE FOR DEPENDENCY EXEMPTION.—For purposes of applying this subsection, any contribution by a person other than the taxpayer with respect to whom a deduction is allowable under section 151(c)(1) for a designated beneficiary shall be treated as having been made by such taxpayer.''

(3) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

''(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means—

''(i) tuition, fees, tutoring, special needs services, books, or supplies in connection with the enrollment or attendance of the designated beneficiary of the trust at a public, private, or religious school, or

''(ii) computer equipment (including related software and services) and other equipment, transportation, and supplementary expenses required or provided by a public, private, or religious school in connection with such enrollment or attendance.

''(B) SPECIAL RULE FOR HOME-SCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.

''(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.''

(4) NO ROLLOVERS BETWEEN COLLEGE ACCOUNTS AND NON-COLLEGE ACCOUNTS.—Section 530(d)(5) of such Code is amended by adding at the end the following: ''This paragraph shall not apply to a transfer of an amount between an account not described in subsection (b)(2)(A)(ii) and an account so described.''

(5) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 of such Code are each amended by striking ''higher'' each place it appears in the text and heading thereof.

(b) TEMPORARY INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) of the Internal Revenue Code of 1986 is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(2) CONTRIBUTION LIMIT.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

''(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means—

''(A) except as provided in subparagraph (B), $500, or

''(B) in the case of an account designated under paragraph (2)(A)(ii)—

''(i) $2,500 for any taxable year ending before January 1, 2003, and

''(ii) zero for any taxable year ending on or after such date.''

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) of such Code is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(B) Section 4973(e)(1)(A) of such Code is amended by striking ''$500'' and inserting ''the contribution limit (as defined in section 530(b)(4)) for such taxable year''.

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

''The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).''

(d) EFFECTIVE DATE; REFERENCES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

(2) REFERENCES.—Any reference in this section to any section of the Internal Revenue Code of 1986 shall be a reference to such section as added by the Taxpayer Relief Act of 1997.

KERREY AMENDMENT NO. 1538

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Internal Revenue Service Restructuring and Reform Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) The Congress finds the following:

(1) The structure of the Internal Revenue Service should be strengthened to ensure focus and better target its budgeting, staffing, and technology to serve the American taxpayer and collect the Federal revenue.

(2) The American public expects timely, accurate, and respectful service from the Internal Revenue Service.

(3) The job of the Internal Revenue Service is to operate as an efficient financial management organization.

(4) The bulk of the Federal revenue is generated through voluntary compliance. Taxpayer service and education, as well as targeted compliance and enforcement initiatives, increase voluntary compliance.

(5) While the Internal Revenue Service must maintain a strong enforcement presence, its core and the core of the Federal revenue stream lie in a revamped, modern, technologically advanced organization that can track finances, send out clear notices, and assist taxpayers promptly and efficiently.

(6) The Internal Revenue Service governance, management, and oversight structures must: develop and maintain a shared vision with continuity; set and maintain priorities and strategic direction; impose accountability on senior management; provide oversight through a credible board, including members who bring private sector expertise to the Internal Revenue Service; develop appropriate measures of success; align budget and technology with priorities and strategic direction; and coordinate oversight and identify problems at an early stage.

(7) The Internal Revenue Service must use information technology as an enabler of its strategic objectives.

(8) Electronic filing can increase cost savings and compliance.

(9) In order to ensure that fewer taxpayers are subject to improper treatment by the Internal Revenue Service, Congress and the agency need to focus on preventing problems before they occur.

(10) There currently is no mechanism in place to ensure that Members of Congress have a complete understanding of how tax legislation will affect taxpayers and the Internal Revenue Service and to create incentives to simplify the tax law, and to ensure that Congress hears directly from the Internal Revenue Service during the legislative process.

(b) The purposes of this Act are as follows:

(1) To restructure the Internal Revenue Service, transforming it into a world class service organization.

(2) To establish taxpayer satisfaction as the goal of the Internal Revenue Service, such that the Internal Revenue Service should only initiate contact with a taxpayer if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter.

(3) To provide for direct accountability to the President for tax administration, an Internal Revenue Service Oversight Board, a strengthened Commissioner of Internal Revenue, and coordinated congressional oversight to ensure that there are clear lines of accountability and that the leadership of the Internal Revenue Service has the continuity and expertise to guide the agency.

(4) To enable the Internal Revenue Service to recruit and train a first-class workforce that will be rewarded for performance and held accountable for working with taxpayers to solve problems.

(5) To establish paperless filing as the preferred and most convenient means of filing tax returns for the vast majority of taxpayers within 10 years of enactment of this Act.

(6) To provide additional taxpayer protections and rights and to ensure that taxpayers receive fair, impartial, timely, and courteous treatment from the Internal Revenue Service.

(7) To establish the resolution of the century date change problem as the highest technology priority of the Internal Revenue Service.

(8) To establish procedures to minimize complexity in the tax law and simplify tax administration, and provide Congress with an independent view of tax administration from the Internal Revenue Service.

TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Executive Branch Governance and Senior Management

SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

''(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (in this subchapter referred to as the 'Board').

''(b) MEMBERSHIP.—

''(1) COMPOSITION.—The Board shall be composed of 9 members, of whom—

''(A) 7 shall be individuals who are not full-time Federal officers or employees, who are appointed by the President, by and with the advice and consent of the Senate, and who shall be considered special government employees pursuant to paragraph (2),

''(B) 1 shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury, and

''(C) 1 shall be a representative of an organization that represents a substantial number of Internal Revenue Service employees who is appointed by the President, by and with the advice and consent of the Senate.

''(2) SPECIAL GOVERNMENT EMPLOYEES.—

''(A) QUALIFICATIONS.—Members of the Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in the following areas:

''(i) Management of large service organizations.

''(ii) Customer service.

''(iii) Compliance.

''(iv) Information technology.

''(v) Organization development.

''(vi) The needs and concerns of taxpayers.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in these enumerated areas.

''(B) TERMS.—Each member who is described in paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed—

''(i) 1 member shall be appointed for a term of 1 year,

''(ii) 1 member shall be appointed for a term of 2 years,

''(iii) 2 members shall be appointed for a term of 3 years, and

''(iv) 1 member shall be appointed for a term of 4 years.

''(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Board.

''(D) SPECIAL GOVERNMENT EMPLOYEES.—During such periods as they are performing services for the Board, members who are not Federal officers or employees shall be treated as special government employees (as defined in section 202 of title 18, United States Code).

''(E) CLAIMS.—

''(i) IN GENERAL.—Members of the Board who are described in paragraph (1)(A) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member. The preceding sentence shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious conduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

''(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

''(I) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

''(II) to affect any other right or remedy against the United States under applicable law, or

''(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees not described in this subparagraph.

''(3) VACANCY.—Any vacancy on the Board—

''(A) shall not affect the powers of the Board, and

''(B) shall be filled in the same manner as the original appointment.

''(4) REMOVAL.—

''(A) IN GENERAL.—A member of the Board may be removed at the will of the President.

''(B) SECRETARY OR DELEGATE.—An individual described in subsection (b)(1)(B) shall be removed upon termination of employment.

''(C) REPRESENTATIVE OF INTERNAL REVENUE SERVICE EMPLOYEES.—A member who is from an organization that represents a substantial number of Internal Revenue Service employees shall be removed upon termination of employment, membership, or other affiliation with such organization.

''(c) GENERAL RESPONSIBILITIES.—

''(1) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the executive and application of the Internal revenue laws or related statutes and tax conventions to which the United States is a party.

''(2) EXCEPTIONS.—The Board shall have no responsibilities or authority with respect to—

''(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

''(B) specific law enforcement activities of the Internal Revenue Service, including compliance activities such as criminal investigations, examinations, and collection activities, or

''(C) specific activities of the Internal Revenue Service delegated to employees of the Internal Revenue Service pursuant to delegation orders in effect as of the date of the enactment of this subsection, including delegation order 106 relating to procurement authority, except to the extent that such delegation orders are modified subsequently by the Secretary.

''(3) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO BOARD MEMBERS.—No return, return information, or taxpayer return information (as defined in section 6103(b)) may be disclosed to any member of the Board described in subsection (b)(1)(A) or (C). Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by a member of the Board to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary and the Joint Committee on Taxation.

''(d) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

''(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

''(A) mission and objectives, and standards of performance relative to either, and

''(B) annual and long-range strategic plans.

''(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

''(A) plans for modernization of the tax system,

''(B) plans for outsourcing or managed competition, and

''(C) plans for training and education.

''(3) MANAGEMENT.—To—

''(A) recommend to the President a list of at least 3 candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

''(B) review the Commissioner's selection, evaluation, and compensation of senior managers,

''(C) review the Commissioner's plans for reorganization of the Internal Revenue Service, and

''(D) review the performance of the office of Taxpayer Advocate.

''(4) BUDGET.—To—

''(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

''(B) submit such budget request to the Secretary of the Treasury,

''(C) ensure that the budget request supports the annual and long-range strategic plans, and

''(D) ensure appropriate financial audits of the Internal Revenue Service.

The Secretary shall submit the advisory budget request referred to in subparagraph (B) for any fiscal year to the President who shall submit such advisory budget request, without revision, to Congress together with the President's official budget request for the Internal Revenue Service for such fiscal year.

''(e) BOARD PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—

''(A) IN GENERAL.—Each member of the Board who is described in subsection (b)(1)(A) shall be compensated at a rate of $30,000 per year. All other members of the Board shall serve without compensation for such service.

''(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Board shall be compensated at a rate of $50,000 per year if such Chairperson is described in subsection (b)(1)(A).

''(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

''(3) STAFF.—On the request of the Chairperson of the Board, the Commissioner shall detail to the Board such personnel as may be necessary to enable the Board to perform its duties. Such detail shall be without interruption or loss of civil service status or privilege.

''(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(f) ADMINISTRATIVE MATTERS.—

''(1) CHAIR.—The members of the Board shall elect a chairperson for a 2-year term.

''(2) COMMITTEES.—The Board may establish such committees as the Board determines appropriate.

''(3) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

''(4) REPORTS.—The Board shall each year report to the President and the Congress with respect to the conduct of its responsibilities under this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended—

(A) by striking ''or'' at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting '', or'', and

(C) by adding at the end the following new paragraph:

''(7) a member of the Internal Revenue Service Oversight Board.''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

''Sec. 7802. Internal Revenue Service Oversight Board.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 102. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

''SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.

''(a) COMMISSIONER OF INTERNAL REVENUE.—

''(1) APPOINTMENT.—

''(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. The appointment shall be made without regard to political affiliation or activity.

''(B) RECOMMENDATIONS.—The President shall select the Commissioner from among the list of candidates submitted by the Internal Revenue Service Oversight Board pursuant to section 7802(3)(A). In the event that the President rejects all of the candidates submitted by such Board, the Board shall submit additional lists as necessary.

''(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

''(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

''(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives, the Committees on Finance, Government Operations, and Appropriations of the Senate, and the Joint Committee on Taxation.

''(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Board on all matters set forth in paragraphs (2) and (3) (other than subparagraph (A)) of section 7802(d)(2).

''(4) PAY.—The Commissioner is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level II of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

''(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

''(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary of the Treasury. To the extent that the Chief Counsel performs duties relating to the development of rules and regulations promulgated under this title, final decision making authority shall remain with the Secretary.

''(3) PAY.—The Chief Counsel is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level III of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

''(c) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—

''(1) ESTABLISHMENT OF OFFICE.—There is established within the Internal Revenue Service an office to be known as the 'Office of Employee Plans and Exempt Organizations' to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies) and other nonqualified deferred compensation arrangements. The Assistant Commissioner shall report annually to the Commissioner with respect to the Assistant Commissioner's responsibilities under this section.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Internal Revenue Service solely to carry out the functions of the Office an amount equal to the sum of—

''(A) so much of the collection from taxes under section 4940 (relating to excise tax based on investment income) as would have been collected if the rate of tax under such section was 2 percent during the second preceding fiscal year, and

''(B) the greater of—

''(i) an amount equal to the amount described in subparagraph (A), or

''(ii) $30,000,000.

''(3) USER FEES.—All user fees collected by the Office shall be dedicated to carry out the functions of the Office.

''(d) OFFICE OF TAXPAYER ADVOCATE.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'.

''(B) NATIONAL TAXPAYER ADVOCATE.—

''(i) IN GENERAL.—The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the 'National Taxpayer Advocate.' The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of the Internal Revenue Service.

''(ii) APPOINTMENT.—The National Taxpayer Advocate shall be appointed by the President, upon recommendation of the Internal Revenue Service Oversight Board, by and with the advice and consent of the Senate, from among individuals with a background in customer service, as well as tax law. No officer or employee of the Internal Revenue Service may be appointed to such position in order to ensure an independent position to represent taxpayers' interests.''.

''(2) FUNCTIONS OF OFFICE.—

''(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

''(i) assist taxpayers in resolving problems with the Internal Revenue Service,

''(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

''(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

''(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

''(B) ANNUAL REPORTS.—

''(i) OBJECTIVES.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

''(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

''(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

''(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

''(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

''(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

''(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

''(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

''(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

''(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

''(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

''(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes, and

''(XI) include such other information as the National Taxpayer Advocate may deem advisable.

''(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees described in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

''(C) OTHER RESPONSIBILITIES.—The National Taxpayer Advocate shall—

''(i) monitor the coverage and geographic allocation of local taxpayer advocates,

''(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local taxpayer advocates,

''(iii) ensure that the local telephone number for the local taxpayer advocate in each Internal Revenue Service district is published and available to taxpayers, and

''(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.''.

''(D) PERSONNEL ACTIONS.—

''(i) HEADS OF LOCAL OFFICES.—The National Taxpayer Advocate shall have the responsibility to—

''(I) appoint and dismiss the local taxpayer advocate heading the office of the taxpayer advocate at each Internal Revenue Service district office and service center, and

''(II) evaluate and take personnel actions with respect to any employee of an office of the taxpayer advocate described in subclause (I).

''(ii) CONSULTATION.—The National Taxpayer Advocate may consult with the head of any Internal Revenue Service district office or service center in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.''.

''(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner.''.

''(4) OPERATION OF LOCAL OFFICES.—

''(A) IN GENERAL.—Each local taxpayer advocate—

''(i) shall report directly to the National Taxpayer Advocate,

''(ii) may consult with the head of the Internal Revenue Service district office or service center which the local taxpayer advocate serves regarding the daily operation of the office of the taxpayer advocate,

''(iii) shall, at the initial meeting with any taxpayer seeking the assistance of the office of the taxpayer advocate, notify such taxpayer that the office operates independently of any Internal Revenue Service district office or service center and reports directly to Congress through the National Taxpayer Advocate, and

''(iv) shall, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

''(B) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the taxpayer advocate shall maintain separate phone, facsimile, and other electronic communication access, and a separate post office address from the Internal Revenue Service district office or service center which it serves.''.

(b) AMENDMENT OF PRESIDENT'S AUTHORITY TO APPOINT CHIEF COUNSEL FOR INTERNAL REVENUE SERVICE.—

(1) Paragraph (2) of section 7801(b) (relating to the office of General Counsel for the Department) is amended to read as follows:

''(2) ASSISTANT GENERAL COUNSELS.—The Secretary of the Treasury may appoint, without regard to the provisions of the civil service laws, and fix the duties of not to exceed five assistant General Counsels.''.

(2)(A) Subsection (f)(2) of section 301 of title 31, United States Code, is amended by striking ''an Assistant General Counsel who shall be the'' and inserting ''a''.

(B) Section 301 of such title 31 is amended by adding at the end the following new subsection:

''(h) CROSS REFERENCE.—For provisions relating to the appointment of officers and employees of the Internal Revenue Service, see subchapter A of chapter 80 of the Internal Revenue Code of 1986.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

''Sec. 7803. Commissioner of Internal Revenue; Chief Counsel; other officials.''

(2) Subsection (b) of section 5109 of title 5, United States Code, is amended by striking ''7802(b)'' and inserting ''7803(c)''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of the Internal Revenue Code of 1986, as added by this section, shall begin as of the date of such appointment.

(B) The President shall nominate for appointment the initial National Taxpayer Advocate to serve as head of the Office of the Taxpayer Advocate established under section 7803(d) of the Internal Revenue Code of 1986, as added by this section, not later than 120 days after the date of the enactment of this Act.

(C) Until an individual has taken office under section 7803(d) of the Internal Revenue Code of 1986, as added by this section, the Taxpayer Advocate shall assume the additional powers and duties of the National Taxpayer Advocate under the amendments made by this section.

SEC. 103. OTHER PERSONNEL.

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

''SEC. 7804. OTHER PERSONNEL.

''(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

''(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

''(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

''(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

''(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the

time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking ''section 7803(d)'' and inserting ''section 7804(c)''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

''Sec. 7804. Other personnel.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Personnel Flexibilities

SEC. 111. PERSONNEL FLEXIBILITIES.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

''Subpart I—Miscellaneous

''CHAPTER 93—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

''Sec.
''9301. General requirements.
''9302. Flexibilities relating to performance management.
''9303. Classification and pay flexibilities.
''9304. Staffing flexibilities.
''9305. Flexibilities relating to demonstration projects.

''§ 9301. General requirements

''(a) CONFORMANCE WITH MERIT SYSTEM PRINCIPLES, ETC.—Any flexibilities under this chapter shall be exercised in a manner consistent with—

''(1) chapter 23, relating to merit system principles and prohibited personnel practices; and

''(2) provisions of this title (outside of this subpart) relating to preference eligibles.

''(b) REQUIREMENT RELATING TO UNITS REPRESENTED BY LABOR ORGANIZATIONS.—

''(1) WRITTEN AGREEMENT REQUIRED.—Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to the exercise of any flexibility under section 9302, 9303, 9304, or 9305, unless there is a written agreement between the Internal Revenue Service and the organization permitting such exercise.

''(2) DEFINITION OF A WRITTEN AGREEMENT.—In order to satisfy paragraph (1), a written agreement—

''(A) need not be a collective bargaining agreement within the meaning of section 7103(8); and

''(B) may not be an agreement imposed by the Federal Service Impasses Panel under section 7119.

''(c) FLEXIBILITIES FOR WHICH OPM APPROVAL IS REQUIRED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), flexibilities under this chapter may be exercised by the Internal Revenue Service without prior approval of the Office of Personnel Management.

''(2) EXCEPTIONS.—The flexibilities under subsections (c) through (e) of section 9303 may be exercised by the Internal Revenue Service only after a specific plan describing how those flexibilities are to be exercised has been submitted to and approved, in writing, by the Director of the Office of Personnel Management.

''§ 9302. Flexibilities relating to performance management

''(a) IN GENERAL.—The Commissioner of Internal Revenue shall, within 180 days after the date of the enactment of this chapter, establish a performance management system which—

''(1) subject to section 9301(b), shall cover all employees of the Internal Revenue Service other than—

''(A) the members of the Internal Revenue Service Oversight Board;

''(B) the Commissioner of Internal Revenue; and

''(C) the Chief Counsel for the Internal Revenue Service;

''(2) shall maintain individual accountability by—

''(A) establishing retention standards which—

''(i) shall permit the accurate evaluation of each employee's performance on the basis of criteria relating to the duties and responsibilities of the position held by such employee; and

''(ii) shall be communicated to an employee before the start of any period with respect to which the performance of such employee is to be evaluated using such standards;

''(B) providing for periodic performance evaluations to determine whether retention standards are being met; and

''(C) with respect to any employee whose performance does not meet retention standards, using the results of such employee's performance evaluation as a basis for—

''(i) denying increases in basic pay, promotions, and credit for performance under section 3502; and

''(ii) the taking of other appropriate action, such as a reassignment or an action under chapter 43; and

''(3) shall provide for—

''(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with Internal Revenue Service performance planning procedures, including those established under the Government Performance and Results Act of 1993, the Information Technology Management Reform Act of 1996, Revenue Procedure 64–22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

''(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

''(C) using assessments under this paragraph, in combination with performance evaluations under paragraph (2), as a basis for granting employee awards, adjusting an employee's rate of basic pay, and taking such other personnel action as may be appropriate.

For purposes of this title, performance of an employee during any period in which such employee is subject to retention standards under paragraph (2) shall be considered to be 'unacceptable' if the performance of such employee during such period fails to meet any of those standards.

''(b) AWARDS.—

''(1) FOR SUPERIOR ACCOMPLISHMENTS.—In the case of an employee of the Internal Revenue Service, section 4502(b) shall be applied by substituting 'with the approval of the Commissioner of Internal Revenue' for 'with the approval of the Office'.

''(2) FOR EMPLOYEES WHO REPORT DIRECTLY TO THE COMMISSIONER.—

''(A) IN GENERAL.—In the case of an employee of the Internal Revenue Service who reports directly to the Commissioner of Internal Revenue, a cash award in an amount up to 50 percent of such employee's annual rate of basic pay may be made if the Commissioner finds such an award to be warranted based on such employee's performance.

''(B) NATURE OF AN AWARD.—A cash award under this paragraph shall not be considered to be part of basic pay.

''(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

''(D) ELIGIBLE EMPLOYEES. Whether or not an employee is an employee who reports directly to the Commissioner of Internal Revenue shall, for purposes of this paragraph, be determined under regulations which the Commissioner shall prescribe.

''(E) LIMITATION ON COMPENSATION.—For purposes of applying section 5307 to an employee in connection with any calendar year to which an award made under this paragraph to such employee is attributable, subsection (a)(1) of such section shall be applied by substituting 'to equal or exceed the annual rate of compensation for the President for such calendar year' for 'to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year'.

''(3) BASED ON SAVINGS.—

''(A) IN GENERAL.—The Commissioner of Internal Revenue may authorize the payment of cash awards to employees based on documented financial savings achieved by a group or organization which such employees comprise, if such payments are made pursuant to a plan which—

''(i) specifies minimum levels of service and quality to be maintained while achieving such financial savings; and

''(ii) is in conformance with criteria prescribed by the Office of Personnel Management.

''(B) FUNDING.—A cash award under this paragraph may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting.

''(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

''(c) OTHER PROVISIONS.—

''(1) NOTICE PROVISIONS.—In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '15 days' shall be substituted for '30 days'.

''(2) APPEALS.—Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

''§ 9303. Classification and pay flexibilities

''(a) BROAD-BANDED SYSTEMS.—

''(1) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'broad-banded system' means a system under which positions are classified and pay for service in any such position is fixed through the use of pay bands, rather than under—

''(i) chapter 51 and subchapter III of chapter 53; or

''(ii) subchapter IV of chapter 53; and

''(B) the term 'pay band' means, with respect to positions in 1 or more occupational series, a pay range—

''(i) consisting of—

''(I) 2 or more consecutive grades of the General Schedule; or

''(II) 2 or more consecutive pay ranges of such other pay or wage schedule as would otherwise apply (but for this section); and

''(ii) the minimum rate for which is the minimum rate for the lower (or lowest) grade or range in the pay band and the maximum rate for which is the maximum rate for the higher (or highest) grade or range in the pay band, including any locality-based and other similar comparability payments.

''(2) AUTHORITY.—The Commissioner of Internal Revenue may, subject to criteria to be

prescribed by the Office of Personnel Management, establish one or more broad-banded systems covering all or any portion of its workforce which would otherwise be subject to the provisions of law cited in clause (i) or (ii) of subsection (a)(1)(A), except for any position classified by statute.

''(3) CRITERIA.—The criteria to be prescribed by the Office shall, at a minimum—

''(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

''(B) establish the minimum (but not less than 2) and maximum number of grades or pay ranges that may be combined into pay bands;

''(C) establish requirements for adjusting the pay of an employee within a pay band;

''(D) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

''(E) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

''(4) INFORMATION.—The Commissioner of Internal Revenue shall submit to the Office such information relating to its broad-banded systems as the Office may require.

''(5) REVIEW AND REVOCATION AUTHORITY.—The Office may, with respect to any broad-banded system under this subsection, and in accordance with regulations which it shall prescribe, exercise with respect to any broad-banded system under this subsection authorities similar to those available to it under sections 5110 and 5111 with respect to classifications under chapter 51.

''(b) SINGLE PAY-BAND SYSTEM.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may, with respect to employees who remain subject to chapter 51 and subchapter III of chapter 53 (or subchapter IV of chapter 53), fix rates of pay under a single pay-band system.

''(2) DEFINITION.—For purposes of this subsection, the term 'single pay-band system' means, for pay-setting purposes, a system similar to the pay-setting aspects of a broad-banded system under subsection (a), but consisting of only a single grade or pay range, under which pay may be fixed at any rate not less than the minimum and not more than the maximum rate which (but for this section) would otherwise apply with respect to the grade or pay range involved, including any locality-based and other similar comparability payments.

''(3) SPECIAL RULES.—

''(A) PROMOTION OR TRANSFER.—An employee under this subsection who is promoted or transferred to a position in a higher grade shall be entitled to basic pay at a rate determined under criteria prescribed by the Office of Personnel Management based on section 5334(b).

''(B) PERFORMANCE INCREASES.—In lieu of periodic step-increases under section 5335, an employee under this subsection who meets retention standards under section 9302(a)(2)(A) shall be entitled to performance increases under criteria prescribed by the Office. An increase under this subparagraph shall be equal to one-ninth of the difference between the minimum and maximum rates of pay for the applicable grade or pay range.

''(C) INCREASES FOR EXCEPTIONAL PERFORMANCE.—In lieu of additional step-increases under section 5336, an employee under this subsection who has demonstrated exceptional performance shall be eligible for a pay increase under this subparagraph under criteria prescribed by the Office. An increase under this subparagraph may not exceed the amount of an increase under subparagraph (B).

''(c) ALTERNATIVE CLASSIFICATION SYSTEMS.—

''(1) IN GENERAL.—Subject to section 9301(c), the Commissioner of Internal Revenue may establish 1 or more alternative classification systems that include any positions or groups of positions that the Commissioner determines, for reasons of effective administration—

''(A) should not be classified under chapter 51 or paid under the General Schedule;

''(B) should not be classified or paid under subchapter IV of chapter 53; or

''(C) should not be paid under section 5376.

''(2) LIMITATIONS.—An alternative classification system under this subsection may not—

''(A) with respect to any position that (but for this section) would otherwise be subject to the provisions of law cited in subparagraph (A) or (B) of paragraph (1), establish a rate of basic pay in excess of the maximum rate for grade GS–15 of the General Schedule, including any locality-based and other similar comparability payments; and

''(B) with respect to any position that (but for this section) would otherwise be subject to the provision of law cited in paragraph (1)(C), establish a rate of basic pay in excess of the annual rate of basic pay of the Commissioner of Internal Revenue.

''(d) GRADE AND PAY RETENTION.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to employees who are covered by a broadbanded system under subsection (a) or an alternative classification system under subsection (c), provide for variations from the provisions of subchapter VI of chapter 53.

''(e) RECRUITMENT AND RETENTION BONUSES; RETENTION ALLOWANCES.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to its employees, provide for variations from the provisions of sections 5753 and 5754.

''§ 9304. Staffing flexibilities

''(a) IN GENERAL.—

''(1) PERMANENT APPOINTMENT IN THE COMPETITIVE SERVICE.—Except as otherwise provided by this subsection, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures when the following conditions are met:

''(A) The employee has completed 2 years of current continuous service in the competitive service under a term appointment or any combination of term appointments.

''(B) Such term appointment or appointments were made under competitive procedures prescribed for permanent appointments.

''(C) The employee's performance under such term appointment or appointments met established retention standards.

''(D) The vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

''(2) CONDITION.—An appointment under this subsection may be made only to a position the duties and responsibilities of which are similar to those of the position held by the employee at the time of conversion (referred to in paragraph (1)(D)).

''(b) RATING SYSTEMS.—

''(1) IN GENERAL.—Notwithstanding subchapter I of chapter 33, the Commissioner of Internal Revenue may establish category rating systems for evaluating job applicants for positions in the competitive service, under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the job to be filled.

''(2) TREATMENT OF PREFERENCE ELIGIBLES.—Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

''(3) SELECTION PROCESS.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or a higher category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as application, are satisfied, except that in no event may certification of a preference eligible under this subsection be discontinued by the Internal Revenue Service under section 3317(b) before the end of the 6-month period beginning on the date of such employee's first certification.

''(c) MAXIMUM PERIOD FOR WHICH EMPLOYEE MAY BE DETAILED.—The 120-day limitation under section 3341(b)(1) for details and renewals of details shall not apply with respect to the Internal Revenue Service.

''(d) INVOLUNTARY REASSIGNMENTS AND REMOVALS OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE SERVICE.—Neither section 3395(e)(1) nor section 3592(b)(1) shall apply with respect to the Internal Revenue Service.

''(e) PROBATIONARY PERIODS.—Notwithstanding any other provision of law or regulation, the Commissioner of Internal Revenue may establish a period of probation under section 3321 of up to 3 years for any position if, as determined by the Commissioner, a shorter period would be insufficient for the incumbent to demonstrate complete proficiency in such position.

''(f) PROVISIONS THAT REMAIN APPLICABLE.—No provision of this section exempts the Internal Revenue Service from—

''(1) any employment priorities established under direction of the President for the placement of surplus or displaced employees; or

''(2) its obligations under any court order or decree relating to the employment practices of the Internal Revenue Service.

''§ 9305. Flexibilities relating to demonstration projects

''(a) IN GENERAL.—For purposes of applying section 4703 with respect to the Internal Revenue Service—

''(1) paragraph (1) of subsection (b) of such section shall be deemed to read as follows:

'''(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;';

''(2) paragraph (3) of subsection (b) of such section shall be disregarded;

''(3) paragraph (4) of subsection (b) of such section shall be applied by substituting '30 days' for '180 days';

''(4) paragraph (6) of subsection (b) of such section shall be deemed to read as follows:

'''(6) provide each House of the Congress with the final version of the plan.';

''(5) paragraph (1) of subsection (c) of such section shall be deemed to read as follows:

'''(1) subchapter V of chapter 63 or subpart G of part III;'; and

''(6) subsection (d)(1) of such section shall be disregarded.

''(b) NUMERICAL LIMITATION.—For purposes of applying the numerical limitation under subsection (d)(2) of section 4703, a demonstration project shall not be counted if or to the extend that it involves the Internal Revenue Service.''

(b) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by adding at the end the following:

''Subpart I—Miscellaneous

''93. Personnel Flexibilities Relating to the Internal Revenue Service .. 9301''.

(c) EFFECTIVE DATE.—this section shall take effect on the date of the enactment of this Act.

TITLE II—ELECTRONIC FILING

SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of the Congress that paperless filing should be the preferred and most convenient means of filing tax and information returns, and that by the year 2007, no more than 20 percent of all tax returns should be filed on paper.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereinafter in this section referred to as the ''Secretary'') shall implement a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) INCENTIVES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall implement procedures to provide for the payment of incentives to transmitters of qualified electronically filed returns, based on the fair market value of costs to transmit returns electronically.

(2) QUALIFIED ELECTRONICALLY FILED RETURNS.—For purposes of this section, the term ''qualified electronically filed return'' means a return that—

(A) is transmitted electronically to the Internal Revenue Service,

(B) for which the taxpayer was not charged for the cost of such transmission, and

(C) in the case of returns transmitted after December 31, 2004, was prepared by a paid preparer who does not submit any return after such date to the Internal Revenue Service on paper.

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1997, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Joint Committee on Taxation, on—

(1) the progress of the Internal Revenue Service in meeting the policy set forth in subsection (a);

(2) the status of the plan required by subsection (b); and

(3) the necessity of action by the Congress to assist the Internal Revenue Service to satisfy the policy set forth in subsection (a).

SEC. 203. PAPERLESS ELECTRONIC FILING.

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking ''Except as otherwise provided by'' and inserting the following:

''(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and'', and

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

''(b) ELECTRONIC SIGNATURES.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary shall accept electronically filed returns and other documents on which the required signature(s) appears in typewritten form, but filers of such documents shall be required to retain a signed paper original of all such filings, to be made available to the Secretary for inspection, until the expiration of the applicable period of limitations set forth in chapter 66.''.

(b) DEADLINE FOR ESTABLISHING PROCEDURES.—Not later than December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(c) PROCEDURES FOR COMMUNICATIONS BETWEEN IRS AND PREPARER OF ELECTRONICALLY-FILED RETURNS.—Such Secretary shall establish procedures for taxpayers to authorize, on electronically filed returns, the preparer of such returns to communicate with the Internal Revenue Service on matters included on such returns.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 304. REGULATION OF PREPARERS.

(a) IN GENERAL.—Subsection (a) of section 330 of title 31, United States Code, is amended—

(1) by striking ''Treasury; and'' in paragraph (1) and inserting ''Treasury and all other persons engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns,'',

(2) by striking the period at the end of paragraph (2) and inserting '', and'', and

(3) by adding at the end the following:

''(3) establish uniform procedures for regulating preparers of paper and electronic tax and information returns.

No demonstration shall be required under paragraph (2) for persons solely engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns.''

(b) DIRECTOR OF PRACTICE.—Such section 330 is amended by adding at the end the following new subsection:

''(d) DIRECTOR OF PRACTICE.—There is established within the Department of the Treasury an office to be known as the 'Office of the Director of Practice' to be under the supervision and direction of an official to be known as the 'Director of Practice'. The Director of Practice shall be responsible for regulation of all practice before the Department of the Treasury.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 205. PAPERLESS PAYMENT.

(a) IN GENERAL.—Section 6311 (relating to payment by check or money order) is amended to read as follows:

''SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

''(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment of internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

''(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, charge card, or electronic funds transfer so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extend as if such check, money order, or other method of payment had not been tendered.

''(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's or cashier's check (or other guaranteed draft), or any money order, or any means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, charge card, or electronic funds transfer transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefore, have a lien for—

''(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

''(2) the amount of such money order upon all the assets of the issuer therefor,

''(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

(d) PAYMENT BY OTHER MEANS.—

''(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

''(A) specify which methods of payment by commercially acceptable means will be acceptable;

''(B) specify when payment by such means will be considered received;

''(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary; and

''(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

''(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of

title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services relating to receiving payment by other means when cost beneficial to the Government.

''(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

''(A) a payment of internal revenue taxes (or a payment of internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C. 1666), to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transportation in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card;

''(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law;

''(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card;

''(D) the term 'creditor' under section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps); and

''(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction in an amount owed to a person as a result of the correction of an error under section 161 of the Truth in Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693(f)), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

''(2) EXCEPTIONS.—

''(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

''(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

''(i) statistical risk and profitability assessment,

''(ii) transferring receivables, accounts, or interest therein,

''(iii) auditing the account information,

''(iv) complying with Federal, State, or local law, and

''(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

''(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

''(4) CROSS REFERENCE.—

''For provision providing for civil damages for violation of paragraph (1), see section 7431.''

(b) SEPARATE APPROPRIATION REQUIRED FOR PAYMENT OF CREDIT CARD FEES.—No amount may be paid by the United States to a credit card issuer for the right to receive payments of internal revenue taxes by credit card without a separate appropriation therefor.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

''Sec. 6311. Payment of tax by commercially acceptable means.''

(d) AMENDMENTS TO SECTION 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph—

''(8) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by check or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.''.

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

''(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).''.

(3) Section 6103(p)(3)(A) is amended by striking ''or (6)'' and inserting ''(6), or (8)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day which is 9 months after the date of the enactment of this Act.

SEC. 206. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on—

(1) the procedures developed pursuant to subsection (a),

(2) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a),

(3) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system, and

(4) what additional resources the Internal Revenue Service would need to implement such a system.

SEC. 207. ACCESS TO ACCOUNT INFORMATION.

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically would be able to review the taxpayer's account electronically, including all necessary safeguards to ensure the privacy of such account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 301. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) IN GENERAL.—Section 7811(a) (relating to taxpayer assistance orders) is amended—

(1) by striking ''Upon application'' and inserting the following:

''(1) IN GENERAL.—Upon application'',

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) DETERMINATION OF HARDSHIP.—For purposes of determining whether a taxpayer is suffering or about to suffer a significant hardship, the Taxpayer Advocate should consider—

''(A) whether the Internal Revenue Service employee to which such order would issue is following applicable published administrative guidance, including the Internal Revenue Manual,

''(B) whether there is an immediate threat of adverse action,

''(C) whether there has been a delay of more than 30 days in resolving taxpayer account problems, and

''(D) the prospect that the taxpayer will have to pay significant professional fees for representation.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AUTHORITY TO AWARD HIGHER ATTORNEY'S FEES BASED ON COMPLEXITY OF ISSUES.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting '', or the difficulty of the issues presented in the case or the local availability of tax expertise,'' before ''justifies a higher rate''.

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—

(1) Paragraph (2) of section 7430(c) is amended by striking the last sentence and insert the following:

''Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.''

(2) Subparagraph (B) of section 7430(c)(7) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following new clause:

''(iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.''

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended by adding at the end the following new sentence: ''Such term also includes such amounts as the court calculates, based on hours worked and costs expended, for services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service and who represents the taxpayer for no more than a nominal fee.''

(d) DETERMINATION OF PREVAILING PARTY.—Paragraph (4) of section 7430(c) is amended—

(A) by inserting at the end of subparagraph (A) the following new flush sentence:

''For purposes of this section, such section 2412(d)(2)(B) shall be applied by substituting '$5,000,000' for the amount otherwise applicable to individuals, and '$35,000,000' for the amount otherwise applicable to businesses.'', and

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

''(D) SAFE HARBOR.—The position of the United States was not substantially justified if the United States has not prevailed on the same issue in at least 3 United States Courts of Appeal.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings beginning after the date of the enactment of this Act.

SEC. 303. CIVIL DAMAGES FOR NEGLIGENCE IN COLLECTION ACTIONS.

(a) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(1) in subsection (a), by inserting '', or by reason of negligence,'' after ''recklessly or intentionally'', and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''($100,000, in the case of negligence)'' after ''$1,000,000'', and

(B) in paragraph (1), by inserting ''or negligent'' after ''reckless or intentional''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 304. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including the extent to which taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 305. ARCHIVAL OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

''(16) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose to the Archivist all records of the Internal Revenue Service for purposes of scheduling such records for destruction or for retention in the National Archives. Any such information that is retained in the National Archives shall not be disclosed without the express written approval of the Secretary.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made by the Archivist after the date of the enactment of this Act.

SEC. 306. TAX RETURN INFORMATION.

The Joint Committee on Taxation shall convene a study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as it deems appropriate, to the Congress no later than one year after the date of the enactment of this Act. Such study shall be led by a panel of experts, to be appointed by the Joint Committee on Taxation, which shall examine the present protections for taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to do so, but does not file tax returns.

SEC. 307. FREEDOM OF INFORMATION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures under which expedited access will be granted to requests under section 551 of title 5, United States Code, when—

(1) there exists widespread and exceptional media interest in the requested information, and

(2) expedited processing is warranted because the information sought involves possible questions about the government's integrity which affect public confidence.

In addition, such procedures shall require the Internal Revenue Service to provide an explanation to the person making the request if the request is not satisfied within 30 days, including a summary of actions taken to date and the expected completion date. Finally, to the extent that any such request is not satisfied in full within 60 days, such person may seek a determination of whether such request should be granted by the appropriate Federal district court.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 308. OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

''(c) ALLOWANCES.—The Secretary shall develop and publish schedules of national and local allowances to ensure that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 309. ELIMINATION OF INTEREST DIFFERENTIAL ON OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Subsection (a) of section 6621 (relating to the determination of rate of interest) is amended to read as follows:

''(a) GENERAL RULE.—

''(1) RATE.—The rate established under this section shall be the sum of—

''(A) the Federal short-term rate determined under subsection (b), plus

''(B) the number of percentage points specified by the Secretary.

''(2) DETERMINATION OF PERCENTAGE POINTS.—The number of percentage points specified by the Secretary for purposes of paragraph (1)(B) shall be the number which the Secretary estimates will result in the same net revenue to the Treasury as would have resulted without regard to the amendments made by section 309 of the Internal Revenue Service Restructuring and Reform Act of 1997.''

(b) CONFORMING AMENDMENTS.—

(1) Section 6621 is amended by striking subsection (c).

(2) The following provisions are each amended by striking ''overpayment rate'' and inserting ''rate'': Sections 42(j)(2)(B), 167(g)(2)(C), 460(b)(2)(C), 6343(c), 6427(i)(3)(B), 6611(a), and 7426(g).

(3) The following provisions are each amended by striking ''underpayment rate'' and inserting ''rate'': Sections 42(k)(4)(A)(ii), 148(f)(4)(C)(x)(II), 148(f)(7)(C)(ii), 453A(c)(2)(B), 644(a)(2)(B), 852(e)(3)(A), 4497(c)(2), 6332(d)(1), 6601(a), 6602, 6654(a)(1), 6655(a)(1), and 6655(h)(1).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining interests for periods after the date of the enactment of this Act.

SEC. 310. ELIMINATION OF APPLICATION OF FAILURE TO PAY PENALTY DURING PERIOD OF INSTALLMENT AGREEMENT.

(a) IN GENERAL.—Subsection (c) of section 6651 (relating to the penalty for failure to file tax return or to pay tax) is amended by adding at the end the following new paragraph:

''(3) TOLLING DURING PERIOD OF INSTALLMENT AGREEMENT.—If the amount required to be paid is the subject of an agreement for payment of tax liability in installments made pursuant to section 6159, the additions imposed under subsection (a) shall not apply so long as such agreement remains in effect.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 311. SAFE HARBOR FOR QUALIFICATION FOR INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Subsection (a) of section 6159 (relating to agreements for payment of tax liability in installments) is amended—

(1) by striking ''The Secretary is'' and inserting the following:

''(1) IN GENERAL.—The Secretary is'',

(2) by moving the test 2 ems to the right, and

(3) by adding at the end the following new paragraph:

''(2) SAFE HARBOR.—The Secretary shall enter into an agreement to accept the payment of a tax liability in installments if—

''(A) the amount of such liability does not exceed $10,000,

''(B) the taxpayer has not failed to file any tax return or pay any tax required to be shown thereon during the immediately preceding 5 years, and

''(C) the taxpayer has not entered into any prior installment agreement under this paragraph.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 312. PAYMENT OF TAXES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall establish such rules, regulations, and procedures as are necessary to require payment of taxes by check or money order to be made payable to the Treasurer, United States of America.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 313. LOW INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7525. LOW INCOME TAXPAYER CLINICS.

''(a) IN GENERAL.—The Secretary shall make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—

''(A) IN GENERAL.—The term 'qualified low income taxpayer clinic' means a clinic that—

''(i) represents low income taxpayers in controversies with the Internal Revenue Service,

''(ii) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title, and

''(iii) does not charge more than a nominal fee for its services except for reimbursement of actual costs incurred.

''(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(i) if—

''(i) at least 90 percent of the taxpayers represented by the clinic have income which does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

''(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

''(2) CLINIC.—The term 'clinic' includes—

''(A) a clinical program at an accredited law school in which students represent low income taxpayers in controversies arising under this title, and

''(B) an organization exempt from tax under section 501(c) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

''(3) QUALIFIED REPRESENTATIVE.—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $3,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) LIMITATION ON INDIVIDUAL GRANTS.—A grant under this section shall not exceed $100,000 per year.

''(3) MULTI-YEAR GRANTS.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

''(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

''(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

''(B) the existence of other low income taxpayer clinics serving the same population,

''(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its track record, if any, in providing service to low income taxpayers, and

''(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the educational institution sponsoring the clinic.

''(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

''(A) the salary (including fringe benefits) of a faculty member at an educational institution who is teaching in the clinic;

''(B) the salaries of administrative personnel employed in the clinic; and

''(C) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the educational institution sponsoring the clinic, shall not be counted as matching funds.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new section:

''Sec. 7525. Low income taxpayer clinics.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 314. JURISDICTION OF THE TAX COURT.

(a) INTEREST DETERMINATIONS.—Subsection (c) of section 7481 (relating to the date when Tax Court decisions become final) is amended—

(1) by inserting ''or underpayment'' after ''overpayment'' each place it appears, and

(2) by striking ''petition'' in paragraph (3) and inserting ''motion''.

(b) EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.—Section 6166 (relating to the extension of time for payment of estate tax) is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by inserting after subsection (j) the following new subsection:

''(k) JUDICIAL REVIEW.—The Tax Court shall have jurisdiction to review disputes regarding initial or continuing eligibility for extensions of time for payment under this section, including disputes regarding the proper amount of installment payments required herein.''

(c) SMALL CASE CALENDAR.—

(1) Subsection (a) of section 7463 (relating to disputes involving $10,000 or less) is amended by striking ''$10,000'' each place it appears and inserting ''$25,000''.

(2) The section hearing for section 7463 is amended by striking ''**$10,000**'' and inserting ''**$25,000**''.

(3) The item relating to section 7463 in the table of sections for part II of subchapter C of chapter 76 is amended by striking ''$10,000'' and inserting ''$25,000''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 315. CATALOGING COMPLAINTS.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures to catalog and review taxpayer complaints of misconduct by Internal Revenue Service employees. Such procedures should include guidelines for internal review and discipline of employees, as warranted by the scope of such complaints.

(b) HOTLINE.—The Commissioner for Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish a toll-free telephone number for taxpayers to register complaints of misconduct by Internal Revenue Service employees, and shall publish such number in Publication 1.

SEC. 316. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) IN GENERAL.—Paragraph (1) of section 7521(b) (relating to procedures involving taxpayer interviews) is amended to read as follows:

''(1) EXPLANATION OF PROCESSES.—An officer or employee of the Internal Revenue Service shall—

''(A) before or at an initial interview, provide to the taxpayer—

''(i) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer's rights under such process, or

''(ii) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer's rights under such process, and

''(B) before an in-person initial interview with the taxpayer relating to the determination of any tax—

''(i) inquire whether the taxpayer is represented by an individual described in subsection (c),

''(2) explain that the taxpayer has the right to have the interview take place in a reasonable place and that such place does not have to be the taxpayer's home,

''(iii) explain the reasons for the selection of the taxpayer's return for examination, and

''(iv) provide the taxpayer with a written explanation of the applicable burdens of proof on taxpayers and the Internal Revenue Service.

If the taxpayer is represented by an individual described in subsection (c), the interview may not proceed without the presence of such individual unless the taxpayer consents.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interviews and examinations taking place after the date of the enactment of this Act.

SEC. 317. EXPLANATION OF JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert taxpayers of their joint and several liabilities on all tax forms, publications, and instructions. Such procedures shall include explanations of the possible consequences of joint and several liability.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 318. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) IN GENERAL.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking ''Where'' and inserting the following:

''(A) IN GENERAL.—Where'',

(2) by moving the text 2 ems to the right, and

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

''(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues, on each occasion when the taxpayer is requested to provide such consent.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to requests to extend the period of limitations made after the date of the enactment of this Act.

SEC. 319. REVIEW OF PENALTY ADMINISTRATION.

The Taxpayer Advocate shall prepare a study and provide an independent report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation, no later than July 30, 1998, reviewing the administration and implementation by the Internal Revenue Service of the penalty reform recommendations made in the Omnibus Budget Reconciliation Act of 1989, including legislative and administrative recommendations to simplify penalty administration and reduce taxpayer burden.

SEC. 320. STUDY OF TREATMENT OF ALL TAXPAYERS AS SEPARATE FILING UNITS.

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies on the feasibility of treating each individual separately for purposes of the Internal Revenue Code of 1986, including recommendations for eliminating the marriage penalty, addressing community property issues, and reducing burden for divorced and separated taxpayers. The reports of each study shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act.

SEC. 321. STUDY OF BURDEN OF PROOF.

The Comptroller General of the United States shall prepare a report on the burdens of proof for taxpayers and the Internal Revenue Service for controversies arising under the Internal Revenue Code of 1986, which shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act. Such report shall highlight the differences between these burdens and the burdens imposed in other disputes with the Federal Government, and should comment on the impact of changing these burdens on tax administration and taxpayer rights.

SEC. 322. NOTICE OF DEFICIENCY TO SPECIFY RIGHT TO CONTACT TAXPAYER ADVOCATE

(a) IN GENERAL.—Section 6212(a) (relating to notice of deficiency) is amended by adding at the end the following: ''Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and telephone number of the nearest such office.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this act.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Subtitle A—Oversight

SEC. 401. COORDINATED OVERSIGHT HEARINGS.

(a) Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by adding after section 7811 the following new section:

''SEC. 7821. COORDINATED OVERSIGHT HEARINGS.

''(a) JOINT HEARINGS.—On or before April 1 of each calendar year after 1997, there shall be a joint hearing of two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, to review the strategic plans and budget for the Internal Revenue Service. After the conclusion of the annual filing season, there shall be a second annual joint hearing to review other matters outlined in subsection (b).

''(b) In preparation for the annual joint hearings provided for under subsection (a), the staffs of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, shall, on an annual rotating basis, prepare reports with respect to—

(1) strategic and business plans for the Internal Revenue Service;

(2) progress of the Internal Revenue Service in meeting its objectives;

(3) the budget for the Internal Revenue Service and whether it supports its strategic objectives;

(4) progress of the Internal Revenue Service in improving taxpayer service and compliance;

(5) progress of the Internal Revenue Service on technology modernization; and

(6) the annual filing season.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Budget

SEC. 412. FUNDING FOR CENTURY DATE CHANGE.

it is the sense of Congress that funding for the Internal Revenue Service efforts to resolve the century date change computing problems should be funded fully to provide for certain resolution of such problems.

SEC. 413. FINANCIAL MANAGEMENT ADVISORY GROUP.

The Commissioner shall convene a financial management advisory group consisting of individuals with expertise in governmental accounting and auditing from both the private sector and the Government to advise the Commissioner on financial management issues, including—

(1) the continued partnership between the Internal Revenue Service and the General Accounting Office;

(2) the financial accounting aspects of the Internal Revenue Service's system modernization;

(3) the necessity and utility of year-round auditing; and

(4) the Commissioner's plans for improving its financial management system.

Subtitle C—Tax Law Complexity

SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.

It is the sense of Congress that the Internal Revenue Service should provide the Congress with an independent view of tax administration, and that during the legislative process, the tax writing committees of the Congress should hear from front-line technical experts at the Internal Revenue Service with respect to the administrability of pending amendments to the Internal Revenue Code of 1986.

SEC. 422. TAX COMPLEXITY ANALYSIS.

(a) IN GENERAL.—Chapter 92 (relating to powers and duties of the Joint Committee on Taxation) is amended by adding at the end the following new section:

''SEC. 8024. TAX COMPLEXITY ANALYSIS.

''(a) IN GENERAL.—

''(1) REPORTED BILLS AND RESOLUTIONS.—When a committee of the Senate or House of Representatives reports a bill or joint resolution that includes any provision amending the Internal Revenue Code of 1986, the report for such bill or joint resolution shall contain a Tax Complexity Analysis prepared by the Joint Committee on Taxation for each provision therein.

''(2) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains an amendment to the Internal Revenue Code of 1986 not previously considered by either House, then the committee of conference shall ensure that the Joint Committee on Taxation prepares a Tax Complexity Analysis for each provision therein.

''(b) CONTENT OF COMPLEXITY ANALYSIS.—Each Tax Complexity Analysis must address—

''(1) whether the provision is new, modifies or replaces existing law, and whether hearings were held to discuss the proposal and whether the Internal Revenue Service provided input as to its administrability;

''(2) when the provision becomes effective, and corresponding compliance requirements on taxpayers (e.g., effective on date of enactment, phased in, or retroactive);

''(3) whether new Internal Revenue Service forms or worksheets are needed, whether existing forms or worksheets must be modified, and whether the effective date allows sufficient time for the Internal Revenue Service to prepare such forms and educate taxpayers;

''(4) necessity of additional interpretive guidance (e.g., regulations, rulings, and notices);

''(5) the extent to which the proposal relies on concepts contained in existing law, including definitions;

''(6) effect on existing record keeping requirements and the activities of taxpayers, complexity of calculations and likely behavioral responses, and standard business practices and resource requirements;

''(7) number, type, and sophistication of affected taxpayers; and

''(8) whether the proposal requires the Internal Revenue Service to assume responsibilities not directly related to raising revenue which could be handled through another Federal agency.

''(c) LEGISLATION SUBJECT TO POINT OF ORDER.—

''(1) IN GENERAL.—It shall not be in order in the Senate or the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report that is not accompanied by a Tax Complexity Analysis for each provision therein.

''(2) IN THE SENATE.—Upon a point of order being made by any Senator against any provision under this section, and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, amendment in disagreement, or conference report, and may not be offered as an amendment from the floor.

''(3) IN THE HOUSE OF REPRESENTATIVES.—

''(A) It shall not be in order in the House of Representatives to consider a rule or order that waives the application of paragraph (1).

''(B) In order to be cognizable by the Chair, a point of order under this section must specify the precise language on which it is premised.

''(C) As disposition of points of order under this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

''(D) A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

''(E) The disposition of the question of consideration under this subsection with respect

to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

''(d) RESPONSIBILITIES OF THE COMMISSIONER.—The Commissioner shall provide the Joint Committee on Taxation with such information as is necessary to prepare a Tax Complexity Analysis on each instance in which such an analysis is required.''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 92 is amended by adding at the end the following new item:

''Sec. 8024. Tax complexity analysis.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to legislation considered on or after the earlier of January 1, 1998, or the 90th day after the date of the enactment of an additional appropriation to carry out section 8024 of the Internal Revenue Code of 1986, as added by this section.

SEC. 423. SIMPLIFIED TAX AND WAGE REPORTING SYSTEM.

(a) POLICY.—It is the policy of the Congress that employers should have a single point of filing tax and wage reporting information.

(b) ELECTRONIC FILING OF INFORMATION RETURNS.—The Social Security Administration shall establish procedures no later than December 31, 1998, to accept electronic submissions of tax and wage reporting information from employers, and to forward such information to the Internal Revenue Service, and to the tax administrators of the States, upon request and reimbursement of expenses. For purposes of this paragraph, recipients of tax and wage reporting information from the Social Security Administration shall reimburse the Social Security Administration for its incremental expenses associated with accepting and furnishing such information.

SEC. 424. COMPLIANCE BURDEN ESTIMATES.

The Joint Committee on Taxation shall prepare a study of the feasibility of developing a baseline estimate of taxpayers' compliance burdens against which future legislative proposals could be measured.

TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION

SEC. 501. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Subsection (a) of section 404 is amended by adding at the end the following new paragraph:

''(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—

''(A) IN GENERAL.—For purposes of determining under this section—

''(i) whether compensation of an employee is deferred compensation, and

''(ii) when deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to severance pay.''

(b) SICK LEAVE PAY TREATED LIKE VACATION PAY.—Paragraph (5) of section 404(a) is amended by inserting ''or sick leave pay'' after ''vacation pay''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after October 8, 1997.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

BOXER AMENDMENTS NOS. 1539–1540

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her to the bill, H.R. 2646, supra; as follows:

AMENDMENT NO. 1539

At the end of the bill, add the following:

SEC. 4. INCENTIVES FOR AFTERSCHOOL PROGRAMS.

Section 226(d)(5) of Public Law 105–34 (The Taxpayer Relief Act of 1997) is amended by adding the following:

''(E) providing productive activities during after school hours, including, but not limited to, mentoring programs, tutoring, recreational activities, and technology training.''

AMENDMENT NO. 1540

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''After School Education and Safety Act of 1997''.

SEC. 2. PURPOSE.

The purpose of this Act is to improve academic and social outcomes for students by providing productive activities during after school hours.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Today's youth face far greater social risks than did their parents and grandparents.

(2) Students spend more of their waking hours along, without supervision, companionship, or activity than the students spend in school.

(3) Law enforcement statistics show that youth who are ages 12 through 17 are most at risk of committing violent acts and being victims of violent acts between 3 p.m. and 6 p.m.

(4) Greater numbers of students are failing in school and the consequences of academic failure are more dire in 1997 than ever before.

SEC. 4. GOALS.

The goals of this Act are as follows:

(1) To increase the academic success of students.

(2) To improve the intellectual, social, physical, and cultural skills of students.

(3) To promote safe and healthy environments for students.

(4) To prepare students for workforce participation.

(5) To provide alternatives to drug, alcohol, tobacco, and gang activity.

SEC. 5. DEFINITIONS.

In this Act:

(1) SCHOOL.—The term ''school'' means a public kindergarten, or a public elementary school or secondary school, as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 6. PROGRAM AUTHORIZED.

The Secretary is authorized to carry out a program under which the Secretary awards grants to schools to enable the schools to carry out the activities described in section 7(a).

SEC. 7. AUTHORIZED ACTIVITIES; REQUIREMENTS.

(a) AUTHORIZED ACTIVITIES.—

(1) REQUIRED.—Each school receiving a grant under this Act shall carry out at least 2 of the following activities:

(A) Mentoring programs.

(B) Academic assistance.

(C) Recreational activities.

(D) Technology training.

(2) PERMISSIVE.—Each school receiving a grant under this Act may carry out any of the following activities:

(A) Drug, alcohol, and gang, prevention activities.

(B) Health and nutrition counseling.

(C) Job skills preparation activities.

(b) TIME.—A school shall provide the activities described in subsection (a) only after regular school hours during the school year.

(c) SPECIAL RULE.—Each school receiving a grant under this Act shall carry out activities described in subsection (a) in a manner that reflects the specific needs of the population, students, and community to be served.

(d) LOCATION.—A school shall carry out the activities described in subsection (a) in a school building or other public facility designated by the school.

(e) ADMINISTRATION.—In carrying out the activities described in subsection (a), a school is encouraged—

(1) to request volunteers from the business and academic communities to serve as mentors or to assist in other ways;

(2) to request donations of computer equipment; and

(3) to work with State and local park and recreation agencies so that activities that are described in subsection (a) and carried out prior to the date of enactment of this Act are not duplicated by activities assisted under this Act.

SEC. 8. APPLICATIONS.

Each school desiring a grant under this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

(1) identify how the goals set forth in section 4 shall be met by the activities assisted under this Act;

(2) provide evidence of collaborative efforts by students, parents, teachers, site administrators, and community members in the planning and administration of the activities;

(3) contain a description of how the activities will be administered;

(4) demonstrate how the activities will utilize or cooperate with publicly or privately funded programs in order to avoid duplication of activities in the community to be served;

(5) contain a description of the funding sources and in-kind contributions that will support the activities; and

(6) contain a plan for obtaining non-Federal funding for the activities.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $50,000,000 for each of the fiscal years 1998 through 2002.

TECHNICAL CORRECTIONS TO COPYRIGHT LAW

HATCH AMENDMENT NO. 1541

Mr. GRASSLEY (for Mr. HATCH) proposed an amendment to the bill, H.R. 672, to make technical amendments to certain provisions of title 17, United States Code; as follows:

On page 15, insert the following after line 8 and redesignate the succeeding sections, and references thereto, accordingly:

SEC. 11. DISTRIBUTION OF PHONORECORDS.

Section 303 of title 17, United States Code, is amended—

(1) by striking ''Copyright'' and inserting ''(a) Copyright''; and

(2) by inserting at the end the following:

''(b) The distribution before January 1, 1978, of a phonorecord shall not for any purpose constitute a publication of the musical work embodied therein.''.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet during the session of the Senate on Friday, October 31, 1997, after the first rollcall vote in the President's room of the Capitol, S–216, to mark up the nominations of Ms. Sally Thompson to be Chief Financial Officer of the U.S. Department of Agriculture and Mr. Joe Dial to be Commissioner of the Commodity Futures Trading Commission.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Monday, November 3, 1997, at 10 a.m. in room 485 of the Russell Senate Office Building, to conduct a markup on H.R. 976, the Mississippi Sioux Tribe Judgment Fund Distribution Act of 1997, followed by a hearing on H.R. 1604, to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, October 30, 1997, at 9:15 a.m. in SR–328A to mark up the nominations of Ms. Sally Thompson to be Chief Financial Officer of the U.S. Department of Agriculture and Mr. Joe Dial to be Commissioner of the Commodity Futures Trading Commission.

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

COMMITTEE ON ARMED SERVICES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, October 30, 1997, at 10:30 a.m. in open session, to consider the nominations of Hon. Robert M. Walker, to be Under Secretary of the Army; Mr. Jerry MacArthur Hultin, to be Under Secretary of the Navy; and Mr. F. Whitten Peters, to be Under Secretary of the Air Force.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, October 30, 1997, to conduct a hearing on the Iran-Libya Sanctions Act.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 30, 1997, at 9:30 a.m. on the nomination of William Clyburn, Jr., to be a member of the Surface Transportation Safety Board, Duncan Moore and Arthur Bienenstock to be members of Office of Science and Technology Policy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BURNS. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Thursday, October 30, 9:30 a.m., in hearing room SD–406 on evidentiary privileges or immunity from prosecution for voluntary environmental audits.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 30, 1997, at 9:30 a.m. and 2 p.m. to hold two hearings.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, October 30, at 9 a.m. for a nomination hearing for John M. Campbell and Anita M. Josey, nominees to the District of Columbia courts.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Subcommittee on Special Investigations to meet on Thursday, October 30, at 10 a.m. for a hearing on campaign financing issues.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, October 30, 1997, at 9:30 a.m. in room 485 of the Russell Senate Building, to conduct a hearing on the nomination of B. Kevin Gover to be Assistant Secretary for Indian Affairs, Department of the Interior.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on HIV/AIDS: Recent Developments and Future Opportunities, during the session of the Senate on Thursday, October 30, 1997, at 10 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, October 30, 1997, beginning at 9 a.m. until business is completed, to hold a hearing on the Senate Strategic Planning Process for Infrastructure Support. A business meeting to consider pending legislative and administrative matters will immediately follow.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. BURNS. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the following nominations: Richard J. Griffin, to be Inspector General, Department of Veterans Affairs; William P. Greene, Jr., to be Associate Judge, Court of Veterans Appeals; Joseph Thompson to be Under Secretary for Benefits, Department of Veterans Affairs; and Espiridion A. Borrego to be Assistant Secretary for Veterans Employment and Training, Department of Labor. The hearing will take place on Thursday, October 30, 1997, at 5 p.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Thursday, October 30, 1997, at 2 p.m. to hold a hearing in room 226, Senate Dirksen Building, on class action lawsuits: examining victim compensation and attorneys' fees.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 30, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 30, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to receive testimony to review the Federal Energy Regulatory Commission's hydroelectric relicensing procedures.

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

CELEBRATING FLORENCE G. HEDKE'S 100TH BIRTHDAY

• Ms. MOSELEY-BRAUN. Mr. President, it is my pleasure and privilege to join the friends and family in celebrating the 100th birthday of a distinguished citizen of Riverdale, IL, Miss Florence G. Hedke, on November 11, 1997.

Miss Hedke is a testament to Riverdale's heritage. She began teaching at the Bowen School in 1919, and later became the school's principal before retiring in 1964. Miss Hedke cherished her experiences at the Bowen School so much that she now lives in the building that was once home to the original Bowen School.

As an educator, Miss Hedke inspired her students to dream, encouraged excellence and showed them the many avenues of opportunity made available through learning. She gave her students the foundation for their dreams. Her influence on the many students she touched has enriched their lives, and ours, in ways too numerous to calculate. She gave young people the confidence in themselves and hope for the future.

The Village of Riverdale, the State of Illinois, and our nation are all better as a result of Florence Hedke's talent, love and commitment to education. She is truly one of Illinois' special treasures, and I am honored to join in the celebration of her 100th birthday.•

CHRISTIANITY IN PUBLIC LIFE TODAY

• Mr. BROWNBACK. Mr. President, I rise to submit for the record an address delivered by my colleague, Senator ABRAHAM from Michigan, to Legatus, a group of Catholic business leaders concerned to bring their faith into their economic and public lives.

We live in an era, Mr. President, in which religious Americans are faced with a number of obstacles as they seek to live their faith in our public square. I believe that Senator ABRAHAM well states the dilemma faced by people of faith and I hope our citizens, and Members of this body in particular, will heed his call for greater understanding and accommodation for religious principles and beliefs.

As we face a continuing breakdown of our families and communities, I believe it is essential that we return to the fundamental institutions, beliefs and practices on which our society was founded. And to do that we must recognize the central role religion has and must continue to play in shaping our character and our community.

The address follows:

CHRISTIANITY IN AMERICA TODAY

An address delivered to the Legatus Regional Conference on October 11, 1997 by Senator Spencer Abraham

First I would like to thank Tom Monahan and all the members of Legatus for having me here. Your work, bringing your faith to bear on your daily lives as business people and citizens, is crucial, in my view, to the health of our republic and the souls of our people.

Because I am speaking today about Christianity in America, I first must point out the standpoint from which I speak: I am both a Christian and a United States Senator. Now, some people might say that ''Christian Senator'' is an oxymoron, right up there with ''political ethics'' or ''military intelligence.'' And it certainly can be difficult to stand up for what is right, for what Christ demands, if you listen too closely to the Washington wisdom. But I think those of you here today know full well how difficult it can be to bring your private beliefs into your public life. Indeed, I think our country as a whole suffers from the fact that we tend to seek a Christian private life while the government too often discourages Christian conduct.

Christianity in America and Christianity in Washington and our state capitals seem to be different things. The good news, of course, is that Christianity in America is in many ways thriving.

For example, by now most Americans have heard of the Promise Keepers. This organization was founded in 1990 by former University of Colorado football coach Bill McCartney. Since its inception over two and a half million men have been to Promise Keepers conferences.

Here they promise to:

(1) Honor Jesus Christ through worship, prayer and obedience to God's word.

(2) Pursue friendships with men who will help them keep their promises.

(3) Practice spiritual, moral, ethical and sexual purity.

(4) Strengthen their commitment to their wives and children through love, protection and devotion to the Bible.

(5) Become more involved in their churches.

(6) Seek racial harmony, and

(7) Follow the Golden Rule by loving God and loving their neighbors as themselves.

That's an unfashionable set of promises to ask men to keep. Yet hundreds of thousands of them came to Washington on October 4, pledging to keep these promises in their daily lives.

And there are a number of other important groups working to bring Christianity back into people's lives. Just a couple of weeks ago in Washington there was an ''Emerging Urban Leaders Conference.'' Dozens of young people—so-called ''Generation Xers'' —from all over the country came together. At this conference they discussed ways to cooperate and learn from one another as they worked in faith-based groups struggling for community renewal.

The conference was held in a spirit of optimism because of the new organizations and networks that are forming around the idea that faith-based programs can save our inner cities, and those who live in them.

And the statistics from a Gallup poll conducted just this year show that Christianity is very much alive among the American people.

Despite what you may hear in the press, less than 1% of the American people are atheists. Meanwhile, 9 out of 10 Americans give a religious identification. 7 out of 10 say they are a member of a church or synagogue. 6 out of 10 say religion is an important part of their daily life. 77% believe the Bible is the inspired word of God. 40% attend church on a weekly basis—a rate that has held steady for almost 40 years. 66% report that prayer is an important part of their daily life. And 61% believe religion can answer all or most of today's problems.

Unfortunately, despite this common religious attitude among the people, in Washington and many state capitals Christianity is having to struggle.

Let me give some examples.

First, one of the fundamental bases of our moral order, recognized by Judaism, Christianity and Islam alike, is the Ten Commandments. The moral principles laid out in these commandments, including love of God as well as rules against murder and perjury, literally gave birth to our society. We ignore them at our peril. Unfortunately, at least one judge has sought to bar expression of these principles from our public square.

Recently, an Alabama judge ordered his colleague, Judge Roy S. Moore, to stop displaying the Ten Commandments in his courtroom. This ruling, now on hold, rests on the mistaken belief that the Constitution's religion clause forbids such displays. It also rests on hostility toward public affirmations of our religious heritage. It can only undermine our adherence to the principles underlying our moral order.

A resolution introduced by my colleague, JEFF SESSIONS, would state that Judge Moore should be allowed to continue displaying the Ten Commandments in his courtroom. I believe that this is the appropriate response.

Unfortunately, activist judges have not been the only ones opposing any role for religion in our public life. Our elected officials too often undermine worthy projects out of hostility or fear toward religion.

For example, my colleague, Georgia Senator Paul COVERDELL, has proposed education legislation establishing ''A-Plus Accounts.'' These accounts would allow parents to use the tax-free education savings accounts provided in the recent Taxpayer Relief Act for their children's elementary and secondary schooling, rather than just for college.

This would give parents greater control over their children's education. With help from these accounts, parents could buy a home computer to enable their child to explore the internet; pay for tutoring for a child having trouble with math; get occupational therapy for a child with special needs, or save for tuition payments and home schooling.

The interest on these savings accounts would not be taxed so long as it was used for educational expenses. And the cost to the federal government and taxpayer? Zero. A+ Accounts would simply allow parents to spend more of their own money on their children's education.

Unfortunately, the President has vowed to veto any bill containing these provisions. This administration does not want parents

to control their own children's educations. Simply giving parents the choice of saving their money for nonpublic and parochial schools for this administration is unacceptable. That is wrong, and it should be put right.

Another wrong we need to put right is abortion. I will do everything I can as a United States Senator to protect unborn life. Here I must point in admiration to my wife Jane. Through the Susan B. Anthony List, which works to elect pro-life women to Congress, and through her many personal efforts, she has done a great deal to improve our ability to correct the great tragedy of abortion.

Unfortunately, the pro-life cause is subjected to a great deal of unfair derision. The press focuses almost exclusively on the few bad apples who resort to violence, and tar us all as extremists. Meanwhile the terrible facts about partial birth abortion have been denied repeatedly, despite massive evidence. Even limited efforts to protect the unborn, like parental notification, have consistently failed to make it into law. In Washington, whether on the Senate floor or in the papers, it is considered ''bad form'' to even bring up the rights of the unborn.

Indeed, it seems to be bad form to bring up any issue of principle or morality, let alone religion, in Washington. Nor is Congress the only place in Washington where religion and traditional values are being undermined. The Executive branch has played its own, destructive role.

Recently President Clinton revoked Ronald Reagan's Executive Order, decreeing that federal bureaucrats consider their actions' effects on the families of this nation. As stated in its preamble, President Reagan's Executive Order was intended ''to ensure that the autonomy and rights of the family are considered in the formulation and implementation of policies by Executive departments and agencies.''

More than any government program, America's children are protected, nurtured and given the means they need to lead good lives by their families. No national ''village'' can replace the constant care and attention of parents. But all too often federal regulations interfere with parents as they try to teach, protect and nurture them.

For example, the Family Research Council reports that the Food and Drug Administration has classified home drug tests as a ''Class 3 Medical Device,'' placing them in the same category as heart pace makers. In effect, the FDA has barred parents from using these tests in their homes—despite the fact that the drug tests work in the same, simple manner as home pregnancy tests.

The irony is that the federal government is using taxpayer dollars to promote the use of other medical devices, namely condoms. Condoms are the subject of a $400,000 federal advertising effort, featuring rock music and sexually suggestive imagery, carried out under federal Department of Health and Human Services regulations.

It seems that, according to the federal government, bureaucrats in Washington are the only ones qualified to make certain that our children are not using drugs, and to educate them concerning sexuality and contraception—matters of deep importance to their spiritual lives.

In these and other ways, Washington seems to go out of its way to show contempt for traditional values. For example, the federally funded Smithsonian Institution, our premier teaching museum, recently refused to allow the Boy Scouts to hold an Honor Court ceremony at the National Zoo. Why? Because the Boy Scouts ''discriminate'' against atheists.

I found it deeply disturbing that the Boy Scouts, one of America's most important private organizations, which has helped literally millions of American boys reach responsible manhood, should be denied access to a federally supported institution because it exercises its Constitutional right to free exercise of religion.

I also was disturbed that the Smithsonian Institution, the repository of so many objects central to our heritage as a people, should enforce a policy diametrically opposed to the principles on which our nation was founded.

Luckily, after I brought this travesty to the attention of my colleagues in the Senate, enough pressure was applied to the Smithsonian's secretary that he rescinded the order and apologized for this obvious instance of intolerance for religion.

I think it is important that we remember victories like this. And there have been others.

For example, the last welfare reform bill finally eliminated a destructive, ill-considered provision. That provision prohibited faith-based organizations from contracting with local governments to provide social services. Under this provision, faith-based organizations had to give up their religious character in order to provide social services with public assistance. The results have been tragic.

In the late 1980's, when the homeless population was rising, state and local officials in Michigan discovered large inner-city churches with plenty of space. But the federal government would not give any money to cities seeking to use the churches for homeless shelters. The problem? All religious references in the churches, from crucifixes to Bible scriptures carved into the walls, had to be removed or covered if government funds were to be spent.

The same situation confronted the people of Flint, where Catholic Social Services runs the North End Soup Kitchen in a building owned by Sacred Heart church. In order to receive government help, from what I am told, they were required to cover up their crucifixes and religious icons and literally hide the bibles. They even were required to create a separate legal entity to accept the aid.

This is wrong. It keeps many good organizations from getting more involved in their communities. It saps our religious spirit and denies people assistance they need.

Fortunately for our communities, this has changed. The charitable choice provision will see to it that states consider religious organizations on an equal, nondiscriminatory basis with private institutions. Faith based organizations are no longer required to remove ''religious art, icons or other symbols'' to receive federal funds. They also are no longer required to change hiring practices or create separate corporations in order to receive government contracts. The only requirement these organizations must meet is that they cannot use government money for sectarian worship, instruction or proselytizing activities.

These reforms already have produced miraculous results. Ottawa County recently was the subject of front page stories in both the Washington Post and USA Today. Why? Because that county's conservative, churchgoing communities have done what no one else had seemed able to do: get every one of its able-bodied welfare recipients into a paying job. Every one.

Governor Engler's innovative ''Project Zero'' deserves a great deal of credit for these results. But even more important, in my view, has been the participation of local churches and parishioners.

Faith-based organizations and individuals have served as mentors, helping people in trouble get their lives back on track. Whether by volunteering to babysit, by helping out with a loan, or by offering friendship and spiritual guidance, these people gave of themselves in ways that have changed lives for the better—in ways that until recently were considered illegal.

I think the Ottawa County experience shows that welfare reform is a solid step forward. We need to build on it, and try to move public policy in a way that recognizes the fundamental role of religion in our lives, and the fundamental principles religion gives us to guide our lives.

Most important, of course, is our duty to protect our children, born and unborn. And, on that front, I am hopeful that we will finally make some progress in the battle against abortion.

The House of Representatives has finally joined the Senate by voting to ban partial birth abortion. I know I, and thousands upon thousands of other people, was deeply disturbed by the tactics of some proponents of abortion in defending this practice. But I think the word is finally out: Partial birth abortion is dangerous, unnecessary, and simply unacceptable. And I am confident that, despite the President's veto, we will finally bring this inexcusable practice to a halt, once and for all.

But this struggle, over the most fundamental principle of all—the sanctity of human life—shows why we can't let liberals have their way.

I want to encourage all of you to get involved and stay involved in public life. Of course, you already are involved by being here in Legatus. But I think America needs you to do even more.

Frankly, there are plenty of groups organized on the other side who have a far different and far more radical agenda than those of us who want to restore traditional religious values. They want abortion on demand, fully-funded by taxpayer dollars up to and including the ninth month. They want government-paid physician assisted suicide, paid for by the Medicare and Medicaid plans to which you are forced to contribute. They want to push religion all the way out of our public life, from our schools, from our courthouses, and from our communities.

But there is no reason to despair. In fact, I think it would show an inappropriate lack of faith to despair for our country. With God's help, you and I can make a difference. We can stand up for the unborn. We can defend our families and the sanctity of marriage against deluded lawmakers and the smut put out by so-called ''entertainers.'' We can fight to bring God back into the classroom and the courtroom. We can make America beautiful again by reminding her that, whatever Washington might say, we are a nation Under God and answerable to Him for our actions.

I am not here to tell you that this task will be easy. But I believe I share with you the conviction that God calls us to work for a more humane public square, in which the voice of faith can be heard. I believe I share with you also the conviction that God is calling all of us, in and out of Washington and Lansing, to renew our public life, to restore it to spiritual health by fighting for the same principles for which Christ died.

The cross may be heavy, but surely not so heavy as His. And we owe it to ourselves, our children and our God to work, in our homes, in our parishes and local communities, in our private lives and in our public lives, to make our society recognize the value of unborn life, the value of the lives of those who are old, ill or simply inconvenient, the value of a life not lived for the pleasure of the moment, but for the glory of God.●

IN RECOGNITION OF ROBERT McNAMARA

• Mr. HOLLINGS. Mr. President, I rise today to recognize a man who exemplifies the American dream. Dr. Robert McNamara, an assistant professor of sociology at Furman University, rose from a childhood of Dickensian poverty and violence to become a successful writer, prodigious researcher, and beloved teacher. In addition to devoting much time to instructing and advising his students, he has published nine books; his most recent, ''Beating the Odds: Crime, Poverty, and Life in the Inner City,'' has just been released.

In ''Beating the Odds,'' Dr. McNamara addresses some of our society's fundamental problems while relating them to the trials of his own impoverished childhood. Though it is unusual for an academic to intertwine memoir with analysis, Dr. McNamara's style makes his book all the more compelling.

Bob McNamara was born in New Haven, CT, in 1960, the youngest of four boys. He and his family—''dirty, unkempt, and unruly''—lived a tenuous existence in a squalid section of the city. His abusive and alcoholic father was a compulsive gambler. McNamara's parents divorced when he was 10 years old. Neither wanted to raise him; after a time, they began paying other people to care for him.

As an adolescent, Bob McNamara was sent to live with 19 different families. His abuse and exploitation at the hands of these so-called foster parents convinced him that ''being a foster child is one of the most frightening things that could ever happen to a young person.'' It was not until one of his high school football coaches realized his potential and decided to become his foster parent that McNamara gained a stable and nurturing home.

With the help of supportive teachers and his new foster family, Bob McNamara turned his life around. He worked two jobs to pay for classes at the local community college. After succeeding there, he enrolled in the State university and commuted 60 miles each way to attend classes. He made outstanding grades and won a scholarship to Yale University, where he obtained his doctorate. While at Yale, he met another graduate student, Kristie Maher, whom he would later marry and who also teaches sociology at Furman University.

Dr. Robert McNamara is a living example of the promise of American life. He was born into an abysmally poor and dysfunctional family, with no role models or guidance. He spent much of his childhood stealing for food and running with gangs. But he found purpose in the pursuit of knowledge and nurturing from his teachers, and went on to excell at one of America's elite universities. Today, he is an admired teacher and respected scholar.

Mr. President, ''Beating the Odds'' is not just the title of Prof. Robert McNamara's latest and most inspiring book; it is the story of his life. In fact, beating the odds is what the American dream is all about.•

THE 75TH ANNIVERSARY OF WALSH COLLEGE

• Mr. ABRAHAM. Mr. President, today I rise to pay tribute to Walsh College on the occasion of their 75th anniversary. Since 1922, Walsh College has been highly instrumental in turning business leaders of tomorrow into business leaders of today. Michiganites, and many others across America, have benefited immensely by the quality of education and rich tradition bestowed upon its students.

Over 11,000 Walsh College alumni have worked to improve Michigan's economy and bring about a better quality of life for those near to them. With over 3,000 students and 4 campuses—soon to be 5 campuses—Walsh College continues to enlarge its positive impact on Michigan's southeastern communities.

It is well known by businesses in Michigan that Walsh students excel in their work. For example, 10 have received the Paton Award for achieving the highest Michigan score on the CPA exam, and 13 have received the Sells Award for placing in the top 100 of those taking the test nationwide. Through its six undergraduate degree programs and five graduate programs, Walsh College brings to Michigan an unparalleled excellence in education.

Again, congratulations for 75 great years in business education and, on behalf of the U.S. Senate, I offer my highest appreciation and praise to all who have made the past 75 years a great success.•

AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1997

• Mr. HARKIN. Mr. President, yesterday, the Senate has passed one of the most important agriculture bills it will consider this session. The Agricultural Research, Extension and Education Reform Act of 1997 not only represents a strong statement by the Senate on the importance of research to the future of American agriculture but also a substantive improvement in USDA's research efforts. I am pleased that both sides of the aisle have come together to invest in the future of agriculture and rural communities in this country. I am especially pleased with the cooperation I have enjoyed with the chairman of the Agriculture Committee, Senator LUGAR, and his staff throughout the development of this important legislation.

This bill ensures that our farmers and ranchers have the world's best science and technology to produce food and fiber, protect the environment upon which agriculture depends, and create rural economic opportunities. We are devoting over $1 billion in new funds over the next 5 years to advance the science and technology underlying our agricultural system. I am also pleased that we were able to find the resources to improve the nutrition of our Nation's poorest children.

We have also extended the fund for rural America through 2002 and reaffirmed and enlarged our commitment to the pressing development needs of our rural communities. The fund was a key component of the 1996 Farm bill, created to provide funds to help farmers and rural communities to transition into the new farm policy environment. I am pleased we have allocated an additional $300 million to these purposes so the fund will continue to emphasize creative research and rural development efforts.

This bill contains substantial new initiatives for research and development of new uses for agricultural commodities. I believe that the most important way to increase farm income is to find new nonfood markets for agricultural commodities. New uses activities at the USDA will be conducted in a coordinated manner to garner the maximum benefit from the various research programs. We have authorized the USDA to use its resources to conduct research on lowering the cost of production of alternative agricultural products in cooperation with startup companies, including AARCC companies. Finally, AARCC is a priority for the new research initiative included in this bill.

This bill also contains significant reforms in the current research programs. We have increased the accountability of the research and extension formula funds. We require the Secretary to consult with producers, industry and consumers in setting research priorities. We require external scientific peer-review of ARS research.

Finally, we have taken the first steps in encouraging the inter-State cooperation on research and extension problems. States are required to dedicate a portion of research and extension funds to problems of national or multi-State significance. In the process I believe we are making our research system more responsive to critical issues and we hopefully will eliminate unnecessary duplication of efforts.

Mr. President, we have increased the funding, competitiveness, accountability and credibility of U.S. agricultural research. We have let the world know that we are serious about equipping American agriculture for future food production changes. We also take steps to assure the taxpayer that research dollars are expended in the most efficient manner. We have done all this in a strong bipartisan manner. I think we can all take pride in the fact that today we have made a significant investment in a better future for not only the U.S. farmer and rancher but also in a better future for an increasingly crowded and hungry world.•

AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT

• Mr. CONRAD. Mr. President, I am pleased to support the Agricultural Research, Extension, and Education Reform Act, the 1996 farm bill's research title. This bill will bring many benefits to the Nation's farmers and to producers in North Dakota. This bill is important not only to our farmers but to North Dakota State University, our five Tribal Colleges and all facets of agricultural production that are the State's lifeblood.

In addition to establishing agricultural research priorities, the bill makes positive changes in the operation of the Nation's agricultural research system, which I am pleased to support. Specifically, this bill will increase the accountability of USDA funded research by increasing stakeholder input. Just this year, the North Dakota State Legislature created one of the first stakeholder groups in the country and gave it unprecedented power to direct the agricultural research at North Dakota State University. This 13-member group met for the first time in July to set priorities for agricultural research in North Dakota. We look forward to being able to serve as a model to other States planning to increase stakeholder input.

I am very pleased the Agriculture Committee and now the U.S. Senate have strongly supported funding for agricultural research. Our Nation's economic base was founded on agriculture and as we drift toward an increasingly urban population, we drift from our agrarian roots but we must not ignore the importance of agricultural productivity. North Dakota farmers and livestock producers continually look to increase farm efficiency, profitability, and environmental stewardship by using new technologies. It is critical that federally funded research focus on these goals while producers maintain global competitiveness.

The bill's Initiative for Future Agriculture and Food Systems provides new funding of $100 million in fiscal year 1998 and $170 million for each of fiscal years 1999 through 2002 to competitively award research, extension, and education grants on issues related to food genome mapping, food safety and technology, human nutrition, new and alternative uses, production of agricultural commodities, biotechnology, and natural resource management.

These are the directions that agricultural research must go in order for the United States to maintain its edge in the global market while providing greater harmony between agriculture and the environment.

Mr. President, I am very pleased this bill incorporates my proposal to give policy research centers the authority to study the effect trade agreements have on farm and agricultural sectors, the environment, rural families, households and economies. Of special concern are the impacts of Canadian grain imports and international policies on the Northern Great Plains. Specifically, I would like them to examine the impact of multinational trade policy issues and North American cross-border policies on Northern Plains agriculture, identify strategies to improve export opportunities for this region of the country, and evaluate the impacts of national and international policies on the region's agricultural competitiveness, farm income, farm structure, and rural economies. Policy researchers at North Dakota State University requested this amendment to help obtain funding for the proposed Northern Great Plains Policy Research Center which would serve as part of the Food and Agricultural Policy Research institute consortium. I fully support their proposal.

And finally, Mr. President, I am very pleased that the bill includes provisions to authorize the Secretary of Agriculture to grant up to $5.2 million in each of years 1998 through 2002 to a consortium of land-grant universities combating diseases of wheat and barley caused by Fusarium graminearum and related fungi, commonly known as scab. Scab has had a profound effect on the farmers and economy of North Dakota and this year alone it is expected to cause $1.1 billion in economic damages. I cannot stress enough the importance of research to combat this horrible crop disease and thank my colleague from Minnesota, Senator WELLSTONE, for working closely with me on this issue and my colleague from Indiana, Senator LUGAR, for including these provisions in the manager's package.

Mr. President, so that everyone may fully understand the consequences of this crop disease, I would like to submit an economic analysis of scab's impact on my home State of North Dakota. I would also like to submit for the RECORD a recent newspaper article from the Grand Forks Herald, headlined, ''An agricultural nightmare,'' which describes scab's impacts and discusses the need for research to combat the disease. Mr. President, I ask that both submissions be printed in the RECORD in full.

The material follows:

THE MARKET ADVISER: SCAB LOSSES SEVERE—GEORGE FLASKERUD, EXTENSION CROPS ECONOMIST NDSU EXTENSION SERVICE

Scab in spring wheat, durum and barley will have a severe impact on the economy of North Dakota this year. Estimates by the department of agricultural economics at North Dakota State University put the direct loss to producers at about $355 million. The total loss is expected to be about $1.1 billion when the indirect impact on the communities is included. This brings total scab losses since 1993 to about $2.9 billion. Demcey Johnson and I, with the help of others in the department, calculated the losses.

These losses have severely damaged many farm financial statements. The median debt/asset ratio for North Dakota farmers increased from 48 percent in 1992 to 56 percent in 1996 and is expected to further increase this year. In addition, North Dakota had a net loss of about 2,000 farms between 1992 and 1996, in many cases due to scab. The debt/asset ratios were derived from the records of farmers in the North Dakota Farm Business Management Education Program.

The total direct loss in 1997 was the greatest of the scab losses since 1993. Yield losses were greater during 1993 and 1995 than during 1997, but, when the price effect was considered, the total direct loss during 1997 was record-setting. The price effect during 1997, to date, has been negative, on average, which accentuates the 1997 yield loss. The price effect has been negative because actual net selling prices have been below what they would have been during a normal year, on average. Many times over the past five years, a positive price effect offset some or all of the loss due to lower yield.

Spring wheat scab losses have generally increased over time when both the yield and price effects are considered. Total direct spring wheat scab losses since 1993 were worse every year except one, the exception being 1996. Barley losses were substantial in three of the five years: the largest was in 1993 followed by 1997 and 1995. For durum, the yield effect exceeded the price effect in two of the five years, 1995 and 1996.

Yield losses were calculated as the difference between trend yields and actual yields. Trend yields were derived from 1970–92 data, leaving out two drought years. The trends were extended to 1997 to derive losses during 1993–97. The yield losses were calculated for Crop Reporting Districts 2, 3, 5, 6, and 9, essentially the eastern portion of North Dakota that has suffered from scab.

Price impacts were calculated as the difference between normal prices and actual net selling prices. For spring wheat, normal prices for 1993–97 were derived from the 1989–92 price relationship between actual net selling prices and Minneapolis futures prices. For durum, normal prices for 1993–97 were derived by multiplying the 1993–97 spring wheat normal prices by a factor of 1.09, which is the long-term price relationship between durum and spring wheat prices. For barley, normal prices for 1993–97 were derived from the 1989–92 price relationship between actual net selling prices and Duluth feed barley prices. These methods permitted both the yield and quality effects to be reflected in the price impacts.

This analysis did not address such factors as insurance indemnity payments and disaster payments. Both were substantial in 1993. Based on my observation of yields in 1997, however, I would expect that insurance indemnity payments will be relatively low this year. Many yields appear to be about at the level where insurance indemnity payments would just start to be realized.

[From the Grand Forks Herald, Sept. 12, 1997]

AN AGRICULTURAL NIGHTMARE—INFESTATIONS OF SCAB PROVIDE AREA FARMERS LOTS OF PAINS IN AND OUT OF THE FIELDS

(By Erin Campbell)

Termed the Armageddon for wheat and barley and compared with cancer, scab remains an uninvited guest and pillager of small grains fields in the region for the last five years.

''It's not a new disease to the area,'' says Jochum Wiersma, small grains specialist with University of Minnesota, Crookston. In fact, it's popped up a few times in the region since the turn of the century.

Scab can infest any wheat-growing area if it has the right moisture conditions to develop, he says.

''We certainly are due for a break,'' says Don Loeslie, a Warren, Minn., farmer.

Wetter-than-normal weather conditions provide tailor-made conditions for scab to thrive and impact the rural economy.

''When we got rain in July, it used to add to bushels, now it takes away,'' says Neal Fisher, deputy administrator for the North Dakota Wheat Commission.

For some producers, scab has robbed them of profits for five years.

''It was the sure crop to plant. We could always pencil in a profit,'' Loeslie says. When farmers deliver grain to their local grain elevator, its quality is evaluated, and the grain is ''graded.'' Grades vary from elevator to elevator. At the MayPort (Mayville and Portland, N.D.) Farmers Co-op elevator grades include milling, No. 1, No. 2, No. 3, No. 4 and terminal or feed wheat.

The price impact of a difference between grades usually amounts to 5 to 10 cents. Feed wheat usually brings 70 cents less than the top market price.

Farmers also receive discounts for low test weight and damage, or they may collect premiums for high protein content.

This year, discounts for damaged wheat aren't as severe as previous years because the shriveled, scabby grain kernels didn't make it into producers' combine hoppers, says Dan Pinske, general manager for MayPort Farmers Co-op elevator.

Instead of discounts, farmers harvested less grain.

''It (scab) was so severe it (scab-damaged grain)— didn't make it into the combine, so they lost a lot of bushels,'' he says.

ECONOMIC IMPACT

Those lost bushels affect producer's profits and the entire region's economy.

Elevators profiting on volume have been hit in the pocketbook as scab reduces the region's wheat yields.

''If we start knocking off 30 to 40 percent of the potential (crop), it's a huge income loss,'' Pinske said.

A study recently done by Demcey Johnson and George Flaskerud, both of North Dakota State University's Agricultural Economics Department, shows scab caused a total economic impact of $2,875 billion from 1993 to 1997. That's a combination of a $934 million direct impact and an indirect impact of $1.941 billion.

Producers in Minnesota saw a 33 percent loss due to scab in 1993. This year, the loss is expected between 12 percent and 18 percent in the northwest valley area of Minnesota, says Roger Jones, Extension plant pathologist at the University of Minnesota.

That loss is comparative to the direct impact of losing one year's entire wheat crop, Fisher says.

The total economic impact of spring wheat production on the region would be about $3.96 billion, using last year's production of 313.5 million bushels multiplied by an average seasonal price of $4.10, a plus a ''multiplier'' effect. Durum, at 79.4 million bushels times the seasonal average price last year of $4.40, plus the multiplier effect, equals roughly $1.08 billion. All barley, at 143 million bushels, times an average seasonal price (average of feed and malting) of $2.45, plus the multiplier effect, also is equivalent to about $1.08 billion.

The scab epidemic has made research efforts a main focus to get the wheat industry back in the black.

But, that takes money.

Scab has become a more prominent issue since 1993 and was the reason for a visit by the newly appointed U.S. Department of Agriculture undersecretary for research, economics and education, Miley Gonzalez.

The North Dakota Wheat Commission and other state grain commissions and councils also are making research a priority when preparing budgets.

The North Dakota Wheat Commission has about $2.4 million to spend this year. If estimates are correct, and the wheat harvest is 100 million bushels lower, the commission will have $800,000 less than last year. The commission's budget comes from an 8/10 of a cent per bushel checkoff.

But, commissions and councils can't shoulder the entire research effort, either.

Attempts at gaining more federal dollars for research are slowly gaining strength in Washington. About $1.2 million in federal funding is planned for 1998.

STOPPING SCAB

Instead of battling the problem individually, states also are teaming up to stop scab.

Minnesota, North Dakota, South Dakota and Canada joined forces in 1993 after the Minnesota Association of Wheat Growers organized a scab symposium.

A 12-state scab initiative, which includes the Dakotas and Minnesota, also was initiated a few years ago.

''The fact that it affects other wheat is, in a way, a blessing in disguise because it becomes a national problem,'' Wiersma said.

One of the key research tasks is finding varieties that resist scab.

''Variety shifts have cut the disease levels in half.'' Jones said.

Most of the varieties used by producers existed before the epidemic hit, and some new varieties have proven to be less susceptible. Barley has not made variety changes to date, but varieties on the horizon look promising.

For a variety to be successful, resistance would need to be twice the current resistance level, Jones says.

''I have a lot of confidence in our scientists, but it's not going to be overnight,'' Fisher said.

In order to solve the scab problem, the industry needs to focus on more than resistant varieties.

Although controversial, different residue practices, such as plowing, may help destroy scab inoculum.

The only way to prove it is by plowing the whole valley, which is unlikely, Wiersma says.

''Producers need to look at their residue programs. Simply relying on genetic resistance, we are going to have a difficult time resolving this problem,'' Jones said.

Change in rotation practices and alternative crops also are options, but they alone cannot solve the problem, either.

''Rotation has an impact, but it's marginal,'' Wiersma says.

OTHER CROPS

Alternative crops, such as oilseeds and beans, face market uncertainty because of overproduction. Many producers have decreased wheat acres as much as possible and are trying other crops.

''Producers are looking for every alternative they can, and that's understandable considering the circumstances. (However) those markets are easily saturated,'' Fisher said.

Many producers also are considering planting winter wheat, but it also can be attacked by scab if excessive moisture comes at the wrong time, Jones says.

And there simply is not a large enough variety of crops to choose from in the northern valley.

''There aren't enough specialty crops to tide us over. We don't have the luxury of the southern areas,'' Loeslie says.

Besides, producers who use wheat as a rotation for other crops, such as sugar beets, can't change their rotation plan.

Sugar beets are planted on a field once every three years, with four years being optimal, said Mark Weber, executive director of the Red River Valley Sugarbeet Growers.

Like the flood that hit Grand Forks this spring, this river of scab will never be forgotten, Loeslie says.

''It's not a healthy situation for the region.''

But the producers in this area will not go down without a fight. Loeslie is confident the dedication and work of a team effort will prove to be successful in the long-term.

''I hate to give up. Wheat has been too good to us for too long.''●

TRIBUTE TO DR. MARY LYNN TISCHER

● Mr. WARNER. Mr. President, I rise today to thank Dr. Mary Lynn Tischer, who leaves my Washington office after almost a year of ceaseless effort as a Transportation Fellow. As we sought to develop consensus on the ISTEA II legislation, Mary Lynn provided superior analysis and assistance, working extensively with her counterparts to gather a large coalition of support for this complex piece of legislation.

Mary Lynn worked with Virginia Secretary of Transportation Robert Martinez and Virginia Governor George Allen as they sought to steer the Step 21 legislation at the State level. In her role as the Administrator of the Office of Policy Analysis, Evaluation, and Intergovernmental Relations at the Virginia Department of Transportation [VDOT], Mary Lynn served the Commonwealth of Virginia admirably. She has worked on travel forecasting, analysis of travel behavior and mode choice, model development, goods movement, and trucking issues. Mary Lynn was chosen to manage the congressionally mandated Heavy Vehicle Cost Allocation Study, the Study of the Feasibility of Designating the Interstate for Larger and Heavier Vehicles, and several studies on state regulation of motor carriers.

Mary Lynn received her Ph.D. in political science from the University of Maryland, with an interdisciplinary major in social psychology as well as a specialty in American government and public policy. Dr. Tischer also serves on the Group I Council of the Transportation Research Board, and is active on several committees and task forces of TRB and AASHTO, including the Reauthorization Task Force.

Mary Lynn is widely recognized as an expert in her field. She was chairman of the International Association of Travel Behavior, editor of Transport Reviews, and on the editorial board of Transportation. Her proficiency has led to her participation on steering committees for national and international conferences, most recently for Household Travel Surveys and Uses of the Decennial Census. She has given numerous papers, and is extensively published in the transportation and marketing fields.

Mary Lynn has been tireless in her work here in my Washington office. Her cheerful demeanor, quick wit, and skillful assistance and intelligence will be sorely missed. I extend my warmest regards to Mary Lynn, and wish her all good luck in her future endeavors.●

EDUCATION SAVINGS ACCOUNTS

• Mr. KENNEDY. Mr. President, I oppose the Coverdell bill because it uses regressive tax policy to subsidize vouchers for private schools. It does not give any real financial help to low-income, working and middle-class families, and it does not help children in the nation's classrooms. What it does is provide yet another tax give-away for the wealthy.

Public education is one of the great successes of American democracy. It makes no sense for Congress to undermine it. This bill turns its back on the nation's long-standing support of public schools and earmarks tax dollars for private schools. This is a fundamental step in the wrong direction for education and for the nation's children.

Proponents of the bill argue that assistance is available for families to send their children to any school, public or private. But that argument is false. The fact is that public schools do not charge tuition. Therefore, the 90% of the nation's children who attend public schools do not need help in paying tuition. Even worse, the people helped most by this proposal are families in high income brackets—and these families can already afford to send their children to private school.

The nation's children deserve good public schools, safe public schools, well-trained teachers, and a good education. Private school vouchers disguised as IRAs will undermine all of those essential goals by undermining the public schools, not helping them.

We all want the nation's children to get the best possible education. We should be doing more—much more—to support efforts to improve local schools. We should oppose any plan that would undermine those efforts.

Scarce tax dollars should be targeted to public schools. They don't have the luxury of closing their doors to students who pose special challenges, such as children with disabilities, limited English-proficient children, or homeless students. Vouchers will not help children who need help the most.

Proponents of the bill argue that vouchers increase choice for parents. But parental choice is a mirage. Private schools apply different rules than public schools. Public schools must accept all children. Private schools can decide whether to accept a child or not. The real choice goes to the schools, not the parents. The better the private school, the more parents and students are turned away.

In fact, many private schools require children to take rigorous achievement tests, at the parents' expense, as a basis for admission to the private schools. Lengthy interviews and complex selection processes are often mandatory. Private schools impose many barriers to admission. Few parents can even get to the schoolhouse door to find out if it is open to their child. For the vast majority of families with children in public schools, the so-called ''school choice'' offered by the voucher scheme is a hollow choice.

Public schools must take all children, and build a program to meet each of their needs. Private schools only take children who fit the guidelines of their existing programs. We should not use public tax dollars to support schools that select some children, and reject others.

Senator COVERDELL's proposal would spend 2.5 billion dollars over the next five years on subsidies to help wealthy people pay the private school expenses they already pay, and do nothing to help children in public schools get a better education.

It is important to continue the national investment in children and their future. We should invest more in improving public schools by fixing leaky roofs and crumbling buildings, by recruiting and preparing excellent teachers, and by taking many other steps. We should not invest in bad education policy and bad tax policy.

We know that at the current time, 14 million children in one-third of the nation's schools are learning in substandard facilities. Over half of all schools report at least one major building in disrepair, with cracked foundations, or leaking roofs, or other major problems. If we have 2.5 billion more dollars to spend on elementary and secondary education, we should spend it to deal with these problems.

During the next decade, because of rising student enrollments and rising teacher retirements, the nation will need over 2 million new teachers. Yet today, more than 50,000 underprepared teachers enter the classroom every year. Students in inner-city schools have only a 50% chance of being taught by a qualified science or math teacher. We should support teachers and rebuild our schools—not build tax shelters for the wealthy.

It is clear that this proposal disproportionately benefits wealthy families. The majority of the tax benefits would go to families in high income brackets. These families can already afford to send their children to private school.

Working families and low-income families do not have enough assets and savings to participate in this IRA scheme. This regressive bill does not help working families struggling to pay day to day expenses during their children's school years.

The majority of families will get almost no tax break from this legislation. 70 percent of the benefit goes to families in the top 20 percent of the income bracket. Families earning less than $50,000 a year will get a tax cut of $2.50 from this legislation—$2.50. You can't even buy a good box of crayons for that amount. Families in the lowest income brackets—those making less than $17,000 a year—will get a tax cut of all of $1—$1. But, a family earning over $100,000 will get $97.

Even many families who can save enough to be able to participate in this IRA scheme will receive little benefit. IRAs work best when the investment is long-term. But in this scheme, money will be taken out each year of a child's education. Only the wealthiest families will be able to take advantage of this tax-free savings account.

In addition, ''qualified expenses'' are defined so broadly in this bill, that parents could justify almost any expense even remotely connected to the costs of elementary and secondary education, creating a large loophole for people to spend funds in ways not intended.

In order to guard against fraud and abuse, the IRS would have to take on more tax audits of families that establish these accounts. The IRS will have to ask what school a child attends, what expenses the parents actually incurred, and whether the accounts were properly set up and used.

This bill is bad tax policy and bad education policy. It does not improve public education for the 90 percent of children who go to public schools. It is a waste of scarce tax dollars.

Education reform should help education, not undermine it. Students need to master the basics, meet high standards, and be taught by well-trained teachers. We need to hold schools accountable for results, and create safe buildings and learning environments.

This bill is simply private school vouchers under another name. It is wrong for Congress to subsidize private schools. We should improve our public schools—not abandon them.•

A FITTING NEW HAMPSHIRE TRIBUTE FOR FALLEN AMERICAN HERO

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the memory of Sgt. William Roy Pearson, USAF. Earlier today, his remains were returned to his native town of Webster, New Hampshire where he will finally be properly laid to rest with full military honors this weekend, more than 25 years following his tragic loss in Vietnam.

Sergeant Pearson was the all American boy who grew up in a small, New Hampshire town, played varsity baseball and soccer all four years at Merrimack Valley High School, and then, like his father before him, went off to serve his country in time of war. As an Air Force Pararescue ''Maroon Beret'', he was awarded a Silver Star, Purple Heart, two Distinguished Flying Crosses, and five air medals for his actions. To Sergeant Pearson, living up to the USAF Pararescuemen motto—''that others may live''—was a daily routine in the jungles of Vietnam.

Then came the tragic day on April 6, 1972 when once again his unit was called upon to rescue a downed U.S. Air Force pilot whose rescue story was later depicted in the movie, BAT–21. During the rescue attempt conducted by Sergeant Pearson and his crewmembers, the Jolly Green was shot down by enemy fire, killing those on

board. Sergeant Pearson was only 20 years old.

But it was not until two decades later that U.S. personnel were finally permitted by Vietnam to fully investigate and excavate what remained of the crash site. Despite the passage of time, the recovery team was able to identify and repatriate the remains of Sergeant Pearson, and we are grateful to our military for their efforts in this regard.

Sergeant Pearson was a hero, not only for his commitment to freedom and the sacrifices he made by serving in Vietnam, but also for his courage in trying to save a comrade, who, I might add, was eventually rescued six days later. His heroic deeds were exemplary of the New Hampshire spirit of duty, honor, and valor, and his story will be an inspiring and moving one in the history of United States Air Force Pararescue for all generations that follow in his footsteps.

As a fellow Vietnam veteran and a long-time advocate for the families of our POWs and MIAs who have suffered uncertainty for far too many years, my thoughts and prayers are with Sergeant Pearson's parents, siblings, family members, fellow comrades, and friends. I know they are all very proud of his service, as they now close this long, sad chapter in their lives.

Finally, Mr. President, I also want to publicly thank the United States Air Force, including personnel at Hanscom Air Force Base in Massachusetts, and Sergeant Pearson's fellow Maroon Berets for the special care they have taken to honor their own, and to bid Sergeant Pearson a fitting farewell in a such a dignified manner. I know that the honors bestowed on Sergeant Pearson by the Air Force during this difficult weekend ahead will help to console those who have suffered the most from his loss. It has been a long wait, but we are grateful he has now returned home for this fitting final goodbye in New Hampshire.●

DELTA TEACHERS' ACADEMY

● Mr. BUMPERS. Mr. President, The Agricultural Research, Extension, and Education Reform Act of 1997, which the Senate passed yesterday, includes a provision which authorizes the Secretary to provide funds to a national organization which promotes educational opportunities at the primary and secondary levels in rural areas with a historic incidence of poverty and low academic achievement.

The 1990 Report of the Lower Mississippi Delta Development Commission identified quality of education as one if its 68 issues to be addressed through State and/or Congressional action. One of several recommendations offered by the Commission was that educational agencies in the Delta establish cooperative partnerships with institutions of higher education. In 1992, the Delta Teachers' Academy was launched as one of the first large-scale, federally funded responses to the Delta Development Commission. Since that time, the Delta Teachers' Academy has offered outstanding opportunities for elementary and high school teachers to increase their academic proficiency and has become the largest professional development program operated by the National Faculty. Acting under the assumption that well-prepared teachers beget well-educated students, Congress has continued to provide funding for the Delta Teachers' Academy. Giving teachers the resources, knowledge, and support they need to achieve the goals set for them should reside at the heart of educational improvement efforts.

The importance of preparing young people for the challenges and realities of the 21st Century is indisputable. The region of the United States known as the Lower Mississippi Delta—Eastern Arkansas, Southeast Missouri, Southern Illinois, Western Kentucky, Western Tennessee, Mississippi, and Louisiana—has lagged behind the rest of the country in economic growth and prosperity. This area suffers from a greater amount of measurable poverty and unemployment than any other region of the country. It is inhibited by people who have used their sense of place to develop a cultural and historical heritage that is rich and unique. A letter from then-Governor Bill Clinton which accompanied the Delta Commission's 1990 report identified the region as ''an enormous untapped resource for America'' that ''can and should be saved.'' The Delta Teachers' Academy has endeavored to do just that.

The Delta Teachers' Academy, the National Faculty's single largest program, unites teachers from largely poor and isolated districts for long-term study in core disciplines. The three-year program combines intensive summer institutes with on-site sessions during the school year. Each teacher team works in collaboration with college and university scholars in one or more of five core disciplines—English, geography, history, math, and science. As teachers improve their mastery of these subject areas and gain confidence in their professional development, they are able to pass their knowledge along to the students with whom they come in contact. In 1995, the program served 600 teachers in 43 program sites. The Academy has continued to expand its outreach efforts and currently serves over 1000 teachers in the 219 counties and parishes comprising the Lower Mississippi Delta.

Positive outcomes have been reported for the Delta Teachers' Academy by the General Accounting office in June of 1995 and as recently as August of this year by Westat, an independent entity commissioned to evaluate the effectiveness of the program. Both determined that the Delta Teachers' Academy is effective in fulfilling its two primary goals—increasing understanding of academic subjects and providing new and useful teaching skills. The GAO report specifically noted the Academy's success in helping teachers' institute changes in their curricula and classroom practice.

I feel that the Delta Teachers' Academy represents community partnership at its very best. I am pleased that Congress has agreed to provide a special authorization for this incredibly worthwhile program. This makes clear Congress' commitment to improving educational opportunity and the overall quality of life for people living in the Lower Mississippi Delta and the need to continue our support such as the Delta Teachers' Academy.●

MEDICARE FRONTIER HEALTH CLINIC AND CENTER ACT OF 1997

● Mr. THOMAS. Mr. President, I am pleased to join my colleague from Alaska, Senator FRANK MURKOWSKI (R-AK), in introducing the ''Medicare Frontier Health Clinic and Center Act of 1997.'' This bill will go a long way in assuring rural families have access to emergency medical care on a 24-hour basis.

As cochairman of the Senate Rural Health Caucus, it has been my priority to put rural health care at the forefront of any legislative package. Included in this year's ''Balanced Budget Act of 1997,'' is a comprehensive set of reforms that increases Medicare reimbursement rates to midlevel practitioners, improves payment levels to rural health plans contracting with Medicare and permits small hospitals to stay open even if they do not meet all of the requirements stipulated under Medicare's conditions of participation.

It is this last provision that is particularly beneficial to Wyoming's health care community. For the first time, our hospitals will be able reconfigure their services and reduce excess bed capacity. The new entities will be called ''Critical Access Hospitals'' [CAH's]. They will be excused from some of the onerous staffing regulations designed with big cities in mind. In addition, they will be reimbursed on a reasonable-cost basis, which provides the extra payment needed to remain open.

While the newly established CAH Program goes to great lengths to expand medical care in rural America, there is still more to do. That is where our bill steps in. The ''Medicare Frontier Health Clinic and Center Act,'' permits state certified health clinics in the most frontier areas to upgrade to CAH status. This will ensure that remote areas of the country will finally have access to hospital services.

Too often, health care providers are forced to close their doors because they cannot contend with low utilization rates, costly regulations and inadequate Medicare reimbursement payments. But closing a hospital or a medical clinic is not an acceptable option in Wyoming. In my State, if a town loses its most important point of service—the emergency room—it is typical

for patients to drive 100 miles or more to the closest tertiary care center. An alternative must be available.

Mr. President, our bill presents communities with a viable option. It accommodates different levels of medical care throughout a state while providing stabilization services needed in remote areas. It is one in a series of measures that the Rural Health Caucus is working on designed to improve quality medical care in rural America, and I look forward to working with my colleague from Alaska to pass this important piece of legislation.●

STUDY OF THE IMPACT OF THE NORTHEAST INTERSTATE DAIRY COMPACT

● Mr. FEINGOLD. Mr. President, the Agriculture appropriations bill, H.R. 2160, which the Senate has approved today contains a provision, section 732, requiring the director of the Office of Management and Budget to conduct a comprehensive economic evaluation of the direct and indirect economic impacts of the Northeast Interstate Dairy Compact on consumers within the six-state compact region and on producers outside of the region. The Senator from Minnesota [Mr. GRAMS] and I offered this amendment with Senators KOHL, LEVIN, ABRAHAM, and WELLSTONE during Senate consideration of the bill, because, to date, there has been no comprehensive analysis of the short and long-term impacts of the Compact from this perspective.

Wisconsin farmers, and many farmers throughout the nation, are extremely concerned that the artificially high milk prices under the Northeast Dairy Compact will place nonCompact farmers at an unfair competitive disadvantage. Compact producers, who on July 1 of this year began receiving a Class I price of $16.94, have been insulated from the market prices which farmers throughout the country have faced in 1997.

Wisconsin farmers are concerned about surplus production the inflated Compact price is likely to generate about the impact of potential milk surpluses on national milk prices. Furthermore, there is concern that this Compact, while ostensibly affecting only Class I milk, will result in surplus Class I milk being processed into cheese, butter and other products which are sold nationally. If the supply of manufactured dairy products rises due to increased manufacturing in the Northeast, national markets for manufactured products will be negatively affected and milk prices to producers may fall nationally. In addition, if milk production rises in the Compact region due to artificial production incentives, excess milk may be shipped out of the Compact region to fill cheese vats elsewhere, further depressing cheese and milk prices. So these secondary effects of the Compact must be examined.

Section 732 of this bill is very specific. It directs OMB to carefully examine changes and projected changes in levels of milk production, the number of cows, the number of dairy farms and milk utilization in the Compact region due to the Compact. OMB must compare changes in those factors resulting from the Compact to levels of production, cow numbers, dairy farms, milk utilization and disposition of milk that would have occurred in the absence of the Compact. It is extremely important that OMB compare Compact effects not with national averages, but rather with production, cow numbers, and other effects that would have occurred had Compact producers been subject to the market conditions facing dairy farmers nationally.

Section 732 also directs OMB to look at a number of economic indicators, such as changes in disposition of milk produced in the Compact region and changes in utilization of Compact milk, that will aid them in determining the impacts of the Compact on farmers outside of the Northeast.

There is also substantial concern about the consumer impacts of the Northeast Interstate Dairy Compact which taxes 14 million Northeast consumers to benefit just over 4000 dairy farmers in the six states. It is not surprising that consumer prices for fluid milk have risen since the Compact price has been in effect. The Compact raises Class I prices specifically because demand for Class I milk is less responsive to price than other dairy products and more revenue can be extracted from the consumer's pocket. OMB must examine the effects of milk price increases on consumers and, in particular, on low-income consumers.

The study must also examine the impacts of the Compact on USDA's vital nutrition programs that provide milk and dairy products to low-income women, children, infants and the elderly. OMB is directed by section 732 to study the impact of the Compact on both actual and projected changes in program participation, on the value of benefits offered under these programs and on the financial status of the institutions offering the programs. Will the purchasing power of food stamps fall because of the higher milk prices? Will schools offering school lunch and breakfast suffer from an effective lower per meal reimbursement rate? Will participation in the WIC program offered by the six northeastern states fall due to increased milk prices? Is the reimbursement scheme established by the Compact Commission adequate to compensate WIC for increased milk costs? These questions should be answered by OMB's analysis.

Finally, OMB must evaluate the impact of adding additional states to the Northeast Dairy Compact on all of the factors mentioned above. The Northeast Dairy Compact allows Delaware, New Jersey, New York, Pennsylvania, Maryland, Virginia, and any additional states contiguous to participating states, to join the Compact and benefit from inflated Class I milk prices. If that happens, a much larger volume of milk, perhaps over 20 percent of national production, will be priced under the Compact and a much larger number of farmers will have artificial incentives to increase milk production. Congress must have information about the potential economic impact of adding more states to the Compact on farmers in Wisconsin, Minnesota, Idaho, California, New Mexico and other major milk producing states. Furthermore, consumer impacts will be magnified if additional states are added and we need to be able to quantify that impact.

Mr. President, the amendment which Senator GRAMS and I offered, which was adopted by the Senate and included in the final bill by the Conference Committee, lays out very clear direction for OMB on the issues they should evaluate regarding the Northeast Interstate Diary Compact.

However, the Senator from Vermont [Senator LEAHY] made a statement shortly after this provision was adopted as part of the Senate FY 1998 Agricultural Appropriations Bill that implied that OMB should study issues much broader than stipulated by section 732. The Senator from Vermont [Mr. LEAHY] was not a cosponsor of the amendment adopted in the Senate and he is incorrect with respect to the issues the bill directs OMB to evaluate. There was no agreement between the authors of section 732 of this bill and the Senator from Vermont, or any other Senators, that any of the items he mentioned in floor statements subsequent to the passage of the amendment were to be included in the study. OMB should look at the requirements of section 732 and at the statements made by the amendment authors in setting the parameters of this study and the intent of Congress.

As a principal coauthor of the provision requiring OMB to study the impact of the Northeast Dairy Compact, I want to make clear what the Agriculture Appropriations Bill requires and what it does not require of OMB's evaluation.

The study does not require that OMB conduct a comprehensive evaluation of retail, wholesale, and processor milk pricing in New England and OMB should not include such a broad analysis in their study. The authors of the study provision did not intend for OMB to examine farm-retail asymmetry issues. OMB's study should not address whether those in the marketing chain should be passing on all or a portion of the increase in farm level milk costs to consumers. This study should provide an objective analysis of the direct impacts of the Northeast Compact on the wholesale and retail cost of fluid milk not a subjective review of how Compact associated price increases compare to price increases or decreases resulting from market conditions in the past.

OMB should not evaluate broader issues of what the appropriate profit margin for those in the marketing chain could or should be or what level

of price increase is justifiable or appropriate. That is a question far exceeding the scope of this study. OMB should not look at regional variations in pricing as they have little relevance to the impact of price increases in New England. OMB should not examine all the factors that affect the price of milk. The amendment offered by Senator Grams, myself and others directs OMB to examine only the impact of the Compact on consumer prices, not the price of feeds, transportation costs or other factors. In the absence of the Compact, those factors would not have changed, and have no bearing on this study. The only change in the status quo is the Compact milk price increase and that is what the study directs OMB to evaluate. The study requirement in this bill merely requires the OMB to report on what impact the inflated Compact Class I price has had on wholesale and retail prices and on consumers generally.

OMB cannot and should not, based on the directive of the study provision in this bill, compare increases in retail milk prices to consumers resulting from the Compact to benefits they might receive by using coupons, shopping at discount stores, or other methods consumers use to reduce overall food bills. Consumers should not have to utilize coupons or other methods to reduce food costs in order to offset milk price increases caused by the Compact as the Senator from Vermont has suggested.

OMB should not compare the impact of the Compact on USDA nutrition programs to the impact of the recently passed welfare reform bill on these same programs. Welfare reform is being implemented differently by each state. It would divert OMB resources to undertake a comprehensive review of the impact of welfare reform on each of these programs in each of the Compact states relative to the overall impact of the Compact on consumers. That issue is well beyond the scope of this study.

OMB should focus their evaluation on the impact of increased Compact milk prices on the purchasing power of USDA's nutrition programs, the number of recipients served, and the institutions offering the programs in terms of increased costs or financial burdens.

Lastly, OMB should not evaluate the supposed direct and indirect ''positive benefits'' the Compact may bring to farmers, land use patterns and tourism in participating Northeastern states. There is no mention of this in the study provision in this bill and OMB should not evaluate these issues. Presumably, the Secretary of Agriculture and policy makers in the Northeast have already examined these factors and duplicating such efforts will be a waste of taxpayer dollars.

Section 732 of FY 1998 Agriculture appropriations bill requiring OMB to study the impact of the Northeast Interstate Dairy Compact on Compact-consumers and on non-Compact dairy farmers and manufacturers is very specific. OMB should stick to the directives of this Section and provide Congress with an objective and unbiased analysis of the Northeast Dairy Compact's impact on these stakeholders.

Mr. President, there will likely be efforts to politicize this study and I will work with OMB and the analysts conducting this analysis to be sure that doesn't happen. I plan to meet with OMB Director Franklin Raines on this subject. Consumers and non-Compact farmers and manufacturers have a right to know how the Compact will impact them without interference by Compact proponents who wish to downplay the negative impacts of this price fixing scheme. This is especially critical given that farmers outside of the Compact region have suffered from extremely low milk prices throughout this year. If the Compact will further drive down milk prices nationally and increase milk supplies, farmers, consumers and taxpayers have a right to know. I, and the other cosponsors of section 732, will hold OMB accountable for the accuracy and objectivity of this study.●

PETER J. McCLOSKEY POSTAL FACILITY LEGISLATION

● Mr. SPECTER. Mr. President, this legislation designates the U.S. Post Office in Pottsville, PA as the Peter J. McCloskey Postal Facility. This measure is cosponsored by my distinguished colleague, Senator SANTORUM. A companion measure, H.R. 2564, passed the House last week and was cosponsored by all 21 members of the Pennsylvania delegation.

Following service in the U.S. Army Air Corps during World War II, where he served with distinction as an aerial gunner instructor in the European Theater, Peter McCloskey worked for the Metropolitan Life Insurance Co. and was later appointed as the supervisor for the Pennsylvania Bureau of School Audits, where he served until 1967.

In 1968, he was appointed postmaster of the Pottsville, PA, post office and served in that capacity for 23 years until his retirement. During that time he earned the respect and admiration of not only the employees he supervised over the years, but the entire community as well. Since leaving the Postal Service, Mr. McCloskey continues to be active in his community, having served on the Pottsville Housing Authority Board of Directors.

The legislation will serve as a fitting tribute to an individual who has given so much to the cause of public service.●

IN MEMORIAM—DAVID H. KRAUS

● Mr. BIDEN. Mr. President, David H. Kraus, assistant chief of the European Division of the Library of Congress, died on October 27 in Lanham, MD. In a career at the Library of Congress that spanned a quarter-century, Mr. Kraus played a pivotal role in developing the library's unparalleled European collections and in advising the Congress in a variety of ways, most recently in the training of parliamentarians and librarians from the newly independent, former Communist States of Europe.

A native of Minnesota, Mr. Kraus received his undergraduate education at the University of Wisconsin and did graduate work at Harvard University. A consummate bibliographer and administrator, he was also a remarkable linguist who attained reading fluency in most of the major languages of Eastern and Western Europe. Mr. Kraus was nationally prominent in library circles and ably represented the Congress at scores of professional meetings.

David Kraus was a wise and gentleman, possessed with a ready wit to go with his enormous erudition. He served the Congress long and faithfully, and he leaves many friends on Capitol Hill where he will be sorely missed.●

NATIONAL DEFENSE AUTHORIZATION ACT

● Mr. COATS. Mr. President, I support the National Defense Authorization Act for fiscal year 1998. I congratulate the chairman, Senator THURMOND, and the ranking member, Senator LEVIN, for their leadership in the bipartisan effort which attained this substantive and far reaching conference agreement. And they reached this agreement with the unanimous support of the Senate Armed Services Committee, all 18 committee members signed the conference report. Most importantly, this agreement was able to produce significant compromise in policy on key issues related to Bosnia, the B–2 bomber, and depot provisions.

DEPOT PROVISIONS

I would like to take a few moments to elaborate on the great accomplishment of this depot compromise. This is a compromise that was very difficult to achieve and I appreciate the very strong views of Senators on both sides of this issue. Earlier in this authorization conference process, I opposed the depot provisions which were originally recommended by the readiness panel because they explicitly precluded competition for the resolution of workloads at Kelly and McClellan Air Logistics Center. So we went back to work and through the significant efforts of many members with key interests in this depot issue, we were able to develop a substantive set of provisions that promote competition, and I support them. This compromise protects the integrity of the BRAC process and will serve the best interests of the Department of Defense and the U.S. taxpayer.

First, this bill provides for an open and fair competition for the workloads at Kelly and McClellan Air Force Base by ensuring that consistent practices are used to value the bids of private and public sector entities. Furthermore, we have been able to incorporate a major initiative in public-private

partnerships. This provision enables the Department of Defense to leverage the core competencies of our public sector depots with those of private industry in building the most effective and the most efficient team for maintaining our military's equipment. And it does so in a way that keeps competitive pressures on both the private and the public sector that will ensure that the Pentagon and the U.S. taxpayer continue to get the best value for their defense dollar. The Pentagon has indicated that this is a workable approach to resolving the highly charged issue surrounding Kelly and McClellan Air Logistics Centers.

Second, the depot package amends the 60–40 public-private workload split to 50–50. This provision, in addition to codifying the definition of depot maintenance in a way that protects procurement of upgrades and major modifications for private industry while retaining a core public sector capability, gives the Department of Defense much more flexibility in undertaking maintenance functions. In short, it allows them a significant increase in headroom to prudently shift depot workloads across the private and the public sectors to achieve efficiencies.

Most importantly, this depot provision gives us a window of opportunity to get defense infrastructure reform on track. From my perspective as chairman of the Airland Subcommittee, I see the impact of the Pentagon's procurement shortfall which measures approximately $10 to $15 billion per year. This shortfall is due to this administration's spending too much on defense infrastructure and operations, and too little on vital modernization. I see it in terms of dozens and dozens of broken programs which are not funded at sustainable rates. Consequently, contractors are required to start and stop development and production of major assemblies, if not final products such as in digital communications, ballistic missile defense, tactical vehicles, and the list goes on and on. I also see it in areas where key Pentagon requirements simply are not being addressed because funding is unavailable such as in the Comanche armed reconnaissance helicopter or the Marine Corps advanced amphibious armored vehicle.

In conclusion, I am encouraged that this depot compromise sets the stage for gaining efficiencies in our infrastructure so that we can retain the readiness levels required in the near term, while at the same time providing the means to boost our procurement programs to help ensure the preparedness of our future forces to dominate the uncertain threats of the 21st Century.

AIRLAND

And now I would like to provide a few comments on the Airland aspects of this bill. First, this National Defense Authorization supports the Army's commendable Force XXI effort which significantly enhances the situational awareness and combat effectiveness of our land forces through information technology. Yet, we need to do much more to get the spectrum of digitization efforts which were strongly endorsed by the Pentagon's Quadrennial Defense Review adequately funded. But at least this is a fair start. We also were able to provide significant enhancements in the military's tactical and operational mobility through increases in tactical trucks, the establishment of multi-year procurement for the Family of Medium Tactical Vehicles [FMTV], and increases in V–22 procurement. We also added increases for tactical air and missile defense capabilities such as with the Sentinel Radar, the Avenger Slew-to-Cue modifications, and enhancements to Stinger missile modifications and the Patriot anticruise missile program.

I spoke at length about my concerns with F–22 cost overruns and technology risks during our deliberations over Defense Appropriations. This National Defense Authorization provides the same F–22 funding levels, but goes the very important further step to put key oversight provisions in place that will help Congress and the administration keep this program on track. First, this bill includes the Senate's total cost cap provisions which limits the level of engineering and manufacturing development to approximately $18.7 billion, and production to $43.4B. Second, it require the General Accounting Office to conduct an annual F-22 review that addresses whether the program is meeting established goals in performance, cost, and schedule.

CONCLUSION

This National Defense Authorization makes great strides in supporting the defense strategy of Shape, Respond, and Prepare Now. It provides significant increases in our readiness accounts. It also takes better care of our military servicmembers and their quality of life through a 2.8 percent payraise and a reformed approach to quarters allowances. And it accelerates procurement to address shortfalls in key mission capabilities. Finally, this National Defense Authorization provides a reasonable compromise to the depot issue through a fair and open competition which serves the best interests of the military and the American taxpayer. In short, this bill provides the policy and fiscal provisions representative of the prudent oversight from our Senate authorization process. It provides the framework for setting a course which ensures U.S. military dominance into the 21st Century.

This National Defense Authorization has my full support, and I strongly encourage all members to vote for it.●

CBO ESTIMATE ON S. 967

● Mr. MURKOWSKI. Mr. President, on October 29, 1997, I filed Report 105–119 to accompany S. 967, a bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes. At the time the report was filed, the estimates by Congressional Budget Office were not available. The estimate is now available and concludes that enactment of S. 967 would ''increase direct spending by about $10 million over the 1998–2002 period.'' I ask that a complete copy of the CBO estimate be printed in the RECORD.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 29, 1997.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 967, a bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs) and Marjorie Miller (for the impact on state, local and tribal governments).

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

S. 967—A bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes

Summary: CBO estimates that enacting S. 967 would increase direct spending by about $10 million over the 1998–2002 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply. Assuming appropriation of the authorized amount, implementing S. 967 also would result in discretionary spending of about $1 million over the next five years.

S. 967 contains at least one intergovernmental mandate as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), but CBO estimates that any costs imposed on state, local, and tribal governments would be minimal and would not exceed the threshold established in that act ($50 million in 1996, adjusted annually for inflation). The bill contains no private-sector mandates as defined in UMRA.

Description of the bill's major provisions: S. 967 would affect the terms and conditions of various property transactions involving Alaska native corporations. Several provisions would affect the property rights of specific native corporations.

S. 967 would amend existing law by assigning a value of $39 million to properties to be conveyed by the Calista Corporation in exchange for monetary credits to certain federal properties if the Department of the Interior (DOI) and the corporation have not agreed on the value of the exchange by January 1, 1998. The bill would allow the Doyon, Limited, native corporation to obtain the subsurface rights retained by the federal government in up to 12,000 acres of public lands surrounded by or contiguous to corporation-owned properties. Another provision would expand the entitlement of the Cook Inlet Region Incorporated (CIRI) to include subsurface rights to an additional 3,520 acres.

S. 967 would amend the Alaska Native Claims Settlement Act to allow the native

residents of five native villages in southeast Alaska to organize as native corporations. The bill would authorize the appropriation of $1 million for planning grants to the five villages.

The bill would permit individual natives to exclude bonds issued by a native corporation from the assets used for determining financial eligibility for federal need-based assistance or benefits.

The bill would extend certain protections to lands exchanged among corporations, clarify the status of applications involving land allotments, and exempt a corporation's revenues from sand, gravel, and certain other resources from the income distribution requirements that apply to regional corporations' development of subsurface property. The bill would specify the method of distributing mining claim revenues related to the Haida Corporation or Haida Traditional Use sites.

Finally, the bill includes administrative provisions affecting training of federal land managers, subsistence uses in Glacier Bay National Park, certain access rights to federal land, contracting preferences for visitor services, and a status report by the Secretary of the Interior on implementing current laws on local hiring and contracting with regard to public lands.

Estimated cost to the Federal Government: CBO estimates that enacting this bill would increase direct spending by about $10 million over the 1998–2002 period and about $17 million over the 1998–2007 period. This bill also would authorize to be appropriated about $1 million for planning grants to certain native villages. The estimated budgetary impact of enacting S. 967 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal years in millions of dollars—				
	1998	1999	2000	2001	2002
Spending Under Current Law:					
Estimated Budget Authority	5	0	−1	−1	−1
Estimated Outlays	5	0	−1	−1	−1
Proposed Changes:					
Estimated Budget Authority	21	0	−4	−4	−4
Estimated Outlays	21	0	−4	−4	−4
Spending Under S. 967:					
Estimated Budget Authority	26	0	−5	−5	−5
Estimated Outlays	26	0	−5	−5	−5
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	0	1	0	0	0
Estimated Outlays	0	1	0	0	0

Basis of estimate

Direct spending

CBO estimates that enacting S. 967 would increase direct spending because of provisions that would result in a loss of federal receipts from property sales.

Calista Corporation property account. The costs of this bill would result primarily from section 5, which prescribes the value of the Calista Corporation's properties to be exchanged for monetary credits with the Department of the Interior to complete a land exchange between the two parties. Under current law, the Calista Corporation is to receive monetary credits equal to the value of the lands to be conveyed, and the corporation is authorized to use these monetary credits to purchase other federal properties. The value of monetary credits counts as direct spending in the year they are issued and as receipts in the years in which they are redeemed. If the credits are used to acquire property that otherwise would have been sold by the government, the use of the credits results in a corresponding loss of receipts from such sales. So far no monetary credits have been awarded because DOI and Calista disagree on the valuation of the properties.

The gap between the valuations is substantial: the department's appraisal assigned a value of about $5 million to the properties, while the corporation asserts that the property is worth significantly more. Given the differences in methodologies and values, this impasse could last for some time. Because the department will not award monetary credits until there is an agreement, it is possible that, under current law, Calista would not receive any monetary credits for several years. For the purpose of this estimate, however, we assume an agreement will be reached in fiscal year 1998, because of Calista's interest in acquiring property with the credits. Although a negotiated valuation could exceed DOI's $5 million appraisal, CBO has no basis for estimating whether and to what extent the Secretary would agree to a higher value. Hence, we assume for this estimate that Calista would receive monetary credits of about $5 million in fiscal year 1998 in the absence of this legislation.

S. 967 provides that if the parties do not agree on a value of the Calista properties to be exchanged, the value would be established at $39 million. If the exchange does not occur before January 1, 1998, the bill directs the Secretary of the Treasury to credit the Calista property account with two-thirds of the established value of the Calista property ($26 million) in monetary credits in fiscal year 1998. The corporation would be permitted to use up to one-half of that amount in fiscal year 1998 and the remaining one-half of the amount credited in fiscal year 1999. If the two parties have not completed the exchange by October 1, 2002, the bill directs the Secretary of the Treasury to credit the account with monetary credits equal to the remaining $13 million. These actions would result in a net increase of $34 million in the amount of credits issued.

Increasing the amount of the credits would increase the budgetary cost of the exchange if Calista's use of the credits in a loss of cash receipts from the sale of federal property. The bill provides that only that federal property which is not scheduled for disposition by sale prior to fiscal year 2003 may be transferred to the Secretary of the Interior for use in the Calista land exchange. Therefore, Calista's use of monetary credits would not result in a loss of receipts to the federal government before fiscal year 2003. Assuming that Calista would use half of its monetary credits to acquire properties that the federal government would have sold anyway, CBO estimates that the bill would increase the net cost of the Calista exchange by about $17 million over the 1998–2007 period. The net increase in outlays over the 1998–2002 period would be $10 million.

Subsurface conveyance to the Doyon Corporation. Section 2 would allow Doyon, Limited, a regional corporation, to acquire up to 12,000 acres of federally owned mineral estate surrounded by or contiguous to subsurface lands owned by that corporation. According to DOI, the federally-owned mineral estate that Doyon, Limited, could acquire under the bill currently has no mineral development. Based on information from the agency, we estimate that although the federal land to be conveyed has some potential for future development, any forgone receipts from the conveyance would total less than $500,000 per year.

Change in eligibility for certain federal assistance. Section 3 would permit Alaska natives to exclude bonds issued by a native corporation from the assets and resources used to determine financial eligibility for federal need-based assistance or benefits. Under current law, natives may exclude certain assets, including stocks issued or distributed by a native corporation as a dividend, from federal financial eligibility tests. This provision would expand the permitted exclusions to include bonds issued by native corporations. Enacting this provision could have limited effects on the federal budget in certain situations. For example, according to a representative of Cook Inlet Region Incorporated (CIRI), this provision would give CIRI greater flexibility in financing a corporate buyback of its shares, which it seeks in order to keep shares in native ownership. (Because CIRI is the only native corporation currently authorized (under Public Law 104–10) to purchase stock from its shareholders, natives in other native corporations would not be affected in this case.) Enacting the provision could increase federal spending by allowing CIRI shareholders, who had planned to sell their shares to CIRI in exchange for a bond and would have stopped receiving federal assistance payments once their assets exceeded financial eligibility tests, to continue to receive federal assistance. We estimate that any such increase in federal assistance payments would total less than $500,000 per year.

Change in CIRI's subsurface rights. Section 4 would increase the entitlement of CIRI to include subsurface rights to an additional 3,520 acres of federal land. Based on information from CIRI representatives and DOI, it seems likely that the corporation would choose properties in the Talkeetna Mountains area. According to DOI, the federal government currently generates no offsetting receipts from that land and does not expect any significant income from it over the next ten years. Therefore, we estimate that any budgetary effect of enacting this provision would be negligible.

Spending subject to appropriation

Section 8 would amend the Alaska Native Claims Settlement Act to allow native residents of five native villages in Southeast Alaska to organize as native corporations. The bill would direct the Secretaries of the Interior and Agriculture to recommend to the Congress the land conveyances and other compensation that should be conveyed to those native corporations; however, it would not entitle those corporations to any federal lands without further Congressional action. This section would authorize the appropriation of about $1 million for planning grants to the five villages.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. As shown in the following table, CBO estimates that enacting S. 967 would affect direct spending by increasing the amount of monetary credits issued to the Calista Corporation by $34 million over the 1998–2007 period, and that the net increase in direct spending over the 10-year period would total about $17 million. Other provisions could also affect direct spending by giving various native corporations the rights to income-producing federal lands, but we estimate that any such additional effects would be negligible. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the subsequent four years are counted.

SUMMARY OF EFFECTS ON DIRECT SPENDING AND RECEIPTS

	By fiscal year in millions of dollars—									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Change in outlays	21	0	−4	−4	−4	14	−2	−2	−2	−2
Change in receipts	Not applicable									

Estimated impact on State, local, and tribal governments: S. 967 contains at least one intergovernmental mandate as defined in UMRA, but CBO estimates that any costs imposed on state, local, and tribal governments would be minimal and would not exceed the threshold established in that act ($50 million in 1996, adjusted annually for inflation).

Mandates

Section 1 of this bill would amend the Alaska National Interest Lands Conservation Act to clarify what lands are eligible for automatic land protections, including exemption from property taxes. This provision would impose a mandate on the state of Alaska and its constituent local governments because it could increase the amount of land exempt from state and local property taxes. (UMRA defines the direct costs of mandates to include revenues that state, local, or tribal governments would be prohibited from collecting.) Based on information provided by Alaska state officials, we estimate that the impact would be negligible, because Alaska has no state property tax and most of the land affected would be in areas of the state and no local property taxes.

By exempting the bonds of native corporations and the income from those bonds from the determination of eligibility for some means-tested federal assistance programs, Section 3 would increase spending for those programs. Because states share these costs, this provision would impose costs on state governments. CBO cannot determine whether some of these costs would result from an intergovernmental mandate, as defined in UMRA. In any event, CBO estimates that any additional costs of states would be minimal.

Other impacts

Other sections of the bill would result in both costs and benefits for state, local, and tribal governments. Several sections of the bill would benefit specific Alaska native corporations, but some of these provisions could affect the distribution of land and other resources among the corporations. For example, section 7 would allow regional corporations to dispose of sand, gravel, and similar materials without distributing part of the proceeds among the other regional corporations, as required by current law. This change would allow village corporations to gain greater access to these resources.

Other provisions would benefit Alaska native corporations by expanding their rights to property and resources currently held by the federal government. Section 5 would specify the value of the properties to be exchanged by the Calista Corporation for other federal properties. This section would effectively increase the amount of property that the corporation could obtain. Section 2 would allow Doyon, Ltd., a regional native corporation, to obtain additional subsurface rights now retained by the federal government. Section 4 would give CIRI subsurface rights to an additional 3,520 acres.

Section 8 would authorize the creation of five additional native corporations. This section would authorize the appropriation of $1 million for planning grants for the new corporations, but would not give them any entitlement to federal land. This provision would not affect the entitlements of any other native corporations.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Victoria V. Heid. Impact on State, Local, and Tribal Governments: Marjorie Miller.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TECHNICAL CORRECTIONS TO THE SATELLITE HOME VIEWER ACT OF 1994

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 672, and further that the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (H.R. 672) to make technical amendments to certain provisions of title 17 of the United States Code.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1541

(Purpose: To make clarifying amendments to section 303 of title 17, United States Code)

Mr. GRASSLEY. Mr. President, Senator HATCH has an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. HATCH, proposes an amendment numbered 1541.

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

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

The amendment is as follows:

On page 15, insert the following after line 8 and redesignate the succeeding sections, and references thereto, accordingly:

SEC. 11. DISTRIBUTION OF PHONORECORDS.

Section 303 of title 17, United States Code, is amended—

(1) by striking ''Copyright'' and inserting ''(a) Copyright''; and

(2) by inserting at the end the following:

''(b) The distribution before January 1, 1978, of a phonorecord shall not for any purpose constitute a publication of the musical work embodied therein.''.

Mr. LEAHY. Mr. President, in March, the House passed H.R. 672. On April 17, the Senate Judiciary Committee reported our companion bill, S. 506.

The only substantive difference between the two bills is that S. 506 provides that the reasonable costs of a ratemaking proceeding conducted by a copyright arbitration royalty panel will be split 50–50 between the parties who would receive royalties from the royalty rate adopted in the proceeding and the parties who would pay the royalty rate so adopted. H.R. 672 provides that the costs shall be borne by the parties in direct proportion to their share of the distribution. The Copyright Office believes that the House version provides the copyright arbitration royalty panels with greater flexibility in certain circumstances. It is for this reason that the Senate is taking up the House version of the bill.

Last year, when the House considered and passed a similar bill, H.R. 1861, it included another section clarifying that the distribution of phonorecords prior to 1978 did not constitute action divesting copyright for the musical composition. This section was intended to clarify the Copyright Law of 1909 on an issue that has become a matter of increasing litigation in a number of Federal Circuits since the Ninth Circuit decision in the ZZ Top case. I was disappointed last year that the Senate did not proceed to consider and pass that bill.

We now have that opportunity. The amendment to H.R. 672 adds back into the bill clarifications, which Chairman Hatch and I have cosponsored as part of another measure this year. This improvement will clarify an esoteric but increasingly important point of copyright law under the 1909 Act with respect to copyrights of musical compositions created more than 20 years ago.

I therefore urge the adoption of the amendment to H.R. 672 and the immediate passage of the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be considered read, agreed to, the bill be considered read for a third time, and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The amendment (No. 1541) was agreed to.

The bill (H.R. 672), as amended, was deemed read a third time, and passed.

FAMILY FARMER PROTECTION ACT OF 1997

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now provide to the consideration of calendar No. 202, S. 1024.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1024) to make chapter 12 of title 11 of the United States Code permanent, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be considered read a third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The bill (S. 1024) was deemed read a third time, and passed, as follows:

S. 1024

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Family Farmer Protection Act of 1997''.

SEC. 2. REPEAL OF SUNSET PROVISION.

Section 302 of the Bankruptcy Judges, United Stats Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 3. CLARIFICATION OF RIGHTS OF FAMILY FARMERS AFTER SUCCESSFUL COMPLETION OF A PLAN.

Section 2008h(b)(2), of title 7, United States Code is amended by adding ''or has successfully completed a reorganization plan under Chapter 12 of title 11, United States Code (the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Public Law No. 99–554, as amended)'' after ''title''.

INVESTMENT IN EDUCATION ACT OF 1997

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 205, S. 1149.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1149) to amend title 11, United States Code, to provide for increased education funding, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Investment in Education Act of 1997''.

SEC. 2. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), after ''507(a)(1)'', insert ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this section and subject to the requirements of subsection (e)—

''(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

''(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 3. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting '', except that, notwithstanding any other Federal law or State law relating to exempted property, exempt property shall be liable for debts of a kind specified in section 523(a) (1) or (5) of this title'' before the semicolon at the end of the paragraph.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read a third time, and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The committee substitute was agreed to.

The bill (S. 1149), as amended, was read a third time, and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 335, Nos. 345 through 349, Nos. 353 through 359, and Nos. 361 through 369, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy. And I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, and any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF LABOR

Charles N. Jeffress, of North Carolina, to be an Assistant Secretary of Labor.

DEPARTMENT OF TRANSPORTATION

Kenneth R. Wykle, of Virginia, to be Administrator of the Federal Highway Administration.

THE JUDICIARY

Mary Ann Cohen, of California, to be a Judge of the United States Tax Court for a term of fifteen years after she takes office.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Margaret Ann Hamburg, of New York, to be an Assistant Secretary of Health and Human Services.

SOCIAL SECURITY ADMINISTRATION

Stanford G. Ross, of the District of Columbia, to be a Member of the Social Security Advisory Board for a term expiring September 30, 2002.

DEPARTMENT OF THE TREASURY

David W. Wilcox, of Virginia, to be an Assistant Secretary of the Treasury.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

John E. Mansfield, of Virginia, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2001.

AIR FORCE

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Stewart E. Cranston, 0000

The following-named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be brigadier general

Col. James P. Czekanski, 0000

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force, to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Rendell F. Clark, Jr., 0000
Brig. Gen. Wilfred Hessert, 0000
Brig. Gen. Theodore F. Mallory, 0000
Brig. Gen. Loran C. Schnaidt, 0000
Brig. Gen. James E. Whinnery, 0000

To be brigadier general

Col. Garry S. Bahling, 0000
Col. David A. Beasley, 0000
Col. Jackson L. Davis III, 0000
Col. David R. Hudlet, 0000
Col. Karl W. Kristoff, 0000

Col. John A. Love, 0000
Col. Clark M. Martin, 0000
Col. Robert P. Meyer, Jr., 0000
Col. John H. Oldfield, Jr., 0000
Col. Eugene A. Schmitz, 0000
Col. Joseph K. Simeone, 0000
Col. Dale K. Snider, Jr., 0000
Col. Emmett R. Titshaw, 0000
Col. Edward W. Tonini, 0000
Col. Giles E. Vanderhoof, 0000

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. John A. Gordon, 0000

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force, to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Paul A. Weaver, Jr., 0000

To be brigadier general

Col. Craig R. McKinley, 0000
Col. Kenneth J. Stromquist, Jr., 0000
Col. Jay W. Van Pelt, 0000

ARMY

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Peter J. Schoomaker, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Larry R. Jordan, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Fletcher C. Coker, Jr., 0000

NAVY

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

To be rear admiral (lower half)

Capt. Phillip M. Balisle, 0000
Capt. Kenneth E. Barbor, 0000
Capt. Larry C. Baucom, 0000
Capt. Robert E. Besal, 0000
Capt. Joseph D. Burns, 0000
Capt. Joseph A. Carnevale, Jr., 0000
Capt. Jay M. Cohen, 0000
Capt. Christopher W. Cole, 0000
Capt. David R. Ellison, 0000
Capt. Lillian E. Fishburne 0000
Capt. Rand H. Fisher, 0000
Capt. Alan M Gemmill, 0000
Capt. David T. Hart, Jr., 0000
Capt. Kenneth F. Heimgartner, 0000
Capt. Joseph G. Henry, 0000
Capt. Gerald L. Hoewing, 0000
Capt. Michael L. Holmes, 0000
Capt. Edward E. Hunter, 0000
Capt. Thomas J. Jurkowsky, 0000
Capt. William R. Klemm, 0000
Capt. Michael D. Malone, 0000
Capt. William J. Marshall III, 0000
Capt. Peter W. Marzluff, 0000
Capt. James D. McArthur, Jr., 0000
Capt. Michael J. McCabe, 0000
Capt. David C. Nichols, Jr., 0000
Capt. Gary Roughead, 0000
Capt. Kenneth D. Slaght, 0000
Capt. Stanley R. Szemborski, 0000
Capt. George E. Voelker, 0000
Capt. Christopher E. Weaver, 0000
Capt. Robert F. Willard, 0000
Capt. Charles B. Young, 0000

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

To be rear admiral (lower half)

Capt. Marion J. Balsam, 0000
Capt. Barry C. Black, 0000
Capt. Richard T. Ginman, 0000
Capt. Michael R. Johnson, 0000
Capt. Charles R. Kubic, 0000
Capt. Rodrigo C. Melendez, 0000
Capt. Daniel H. Stone, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, sections 601 and 5035:

To be admiral

Vice Adm. Donald L. Pilling, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Conrad C. Lautenbacher, 0000

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

To be rear admiral

Rear Adm. (lh) Lowell E. Jacoby, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Michael L. Bowman, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Vernon E. Clark, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Rebecca G. Abraham, and ending Robert J. Zyriek II, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Air Force nominations beginning Share Dawn P. Angel, and ending Dustin Zierold, which nominations were received by the Senate and appeared in the Congressional Record of October 20, 1997.

Army nominations beginning *Reed S. Christensen, and ending James E. Ragan, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Army nominations beginning *Perry W. Blackburn, Jr., and ending *Paul A. Whittingslow, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Army nominations beginning Russell D. Howard, and ending Stephen J. Ressler, which nominations were received by the Senate and appeared in the Congressional Record of October 9, 1997.

Army nominations beginning Debra L. Boudreau, and ending Carl M. Wagner, which nominations were received by the Senate and appeared in the Congressional Record of October 20, 1997.

Army nominations beginning Lelon W. Carroll, and ending Howard W. Wellspring II, which nominations were received by the Senate and appeared in the Congressional Record of October 20, 1997.

Marine Corps nomination of Paul D. Mcgraw, which was received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nomination of Jeffrey L. Schram, which was received by the Senate and appeared in the Congressional Record of June 12, 1997.

Navy nominations beginning Frank P. Achorn, Jr, and ending Daniel J. Zinder, which nominations were received by the Senate and appeared in the Congressional Record of September 18, 1997.

Navy nominations beginning *Frederick Braswell, and ending Edwin A. Tharpe, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nominations beginning Leigh P. Ackart, and ending John A. Zulick, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nominations beginning William L. Abbott, and ending Steven D. Ziegler, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nominations beginning William B. Allen, and ending James P. Waters, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nomination of Arvin W. Johnsen, which was received by the Senate and appeared in the Congressional Record of October 20, 1997.

Navy nominations beginning William L. Richards, and ending David A. Hawkins, which nominations were received by the Senate and appeared in the Congressional Record of October 20, 1997.

Navy nomination of James R. Pipkin, which was received by the Senate and appeared in the Congressional Record of October 20, 1997.

STATEMENT ON THE NOMINATION OF LT. GEN. KENNETH R. WYKLE TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION

Mr. CHAFEE. Mr. President, I am pleased that the Senate has confirmed Lt. Gen. Kenneth R. Wykle to be the Administrator of the Federal Highway Administration. I must say that we have been waiting quite some time for this day, as the position has been vacant since Secretary Slater was confirmed in early February.

General Wykle appeared before the Committee on Environment and Public Works on Tuesday, October 28, and I am pleased to report that he is an excellent candidate for the position before him. He has a distinguished 32-year record of service with U.S. Army, where he led a number of organizations and commands in the United States, Europe, and Asia. He also has extensive experience in managing the transportation of personnel and cargo by air, highway, rail, and ship. I am confident that he will continue to build on this excellent record as Federal Highway Administrator.

In his new position, General Wykle will represent the Department of

Transportation and advise the Secretary on all matters related to the efficient movement of passengers and freight on the Nation's transportation system. The Federal Highway Administration is responsible for implementing a wide range of programs, including the Federal-aid highway program; highway safety programs; motors carrier programs; the federal lands highway program; research and technology; and international programs.

An issue that is on everyone's mind is the reauthorization of the Intermodal Surface Transportation Efficiency Act, or ISTEA. The Federal Highway Administration's role is a critical one in helping to implement this landmark legislation. I look forward to working with General Wykle and his staff through the reauthorization process and through the implementation process, once the bill is enacted.

It is incumbent upon the Federal Highway Administrator to protect not only the key Federal role in implementing ISTEA II but also the broad perspective needed to guide the Nation's transportation system into the next century. The enactment of ISTEA in 1991 transformed what was once simply a highway program into a program not only for building roads and bridges but also for enhancing our mobility, our safety, and the environment. In the second ISTEA, we must move forward and strengthen ISTEA's laudable goals of intermodalism, flexibility and efficiency.

I am confident that General Wykle has the experience and the knowledge to lead the Federal Highway Administration through the challenges ahead.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR FRIDAY, OCTOBER 31, 1997

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Friday, October 31. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted, and that the Senate immediately proceed to the consideration of H.R. 2646, the A-Plus Education bill, with the time until 10:30 a.m. being equally divided between Senator COVERDELL and Senator DASCHLE or Senator DASCHLE's designee.

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

PROGRAM

Mr. GRASSLEY. Tomorrow morning the Senate will begin an hour of debate prior to the cloture vote on H.R. 2646, the A-Plus Education bill. Therefore, Members can anticipate the first rollcall vote tomorrow at approximately 10:30 a.m. If cloture is not invoked, the Senate will proceed to a cloture vote on the motion to proceed to the Defense Authorization Act Conference Report. Members can anticipate additional procedural votes on that measure.

In addition, the Senate may consider the D.C. appropriations bill, the Amtrak strike resolution, and any additional legislative or executive items that can be cleared. As a reminder to Members, the first rollcall vote tomorrow morning will occur at 10:30 a.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:50 p.m., adjourned until Friday, October 31, 1997, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 30, 1997:

FEDERAL RESERVE SYSTEM

EDWARD M. GRAMLICH, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1994.

ROGER WALTON FERGUSON, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1986.

DEPARTMENT OF LABOR

CHARLES N. JEFFRESS, OF NORTH CAROLINA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF TRANSPORTATION

KENNETH R. WYKLE, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION.

JUDICIARY

MARY ANN COHEN, OF CALIFORNIA, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM OF FIFTEEN YEARS AFTER SHE TAKES OFFICE.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARGARET ANN HAMBURG, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

SOCIAL SECURITY ADMINISTRATION

STANFORD G. ROSS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2002.

DEPARTMENT OF THE TREASURY

DAVID W. WILCOX, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOHN E. MANSFIELD, OF VIRGINIA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2001.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

CHARLES J. SIRAGUSA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. STEWART E. CRANSTON, 8502.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be brigadier general

COL. JAMES P. CZEKANSKI, 0000.

THE FOLLOWING AIR NATIONAL GUARD OFFICERS OF THE UNITED STATES FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. RENDELL F. CLARK, JR., 0000.
BRIG. GEN. WILFRED HESSERT, 0000.
BRIG. GEN. THEODORE F. MALLORY, 0000.
BRIG. GEN. LORAN C. SCHNAIDT, 0000.
BRIG. GEN. JAMES E. WHINNERY, 0000.

To be brigadier general

COL. GARRY S. BAHLING, 0000.
COL. DAVID A. BEASLEY, 0000.
COL. JACKSON L. DAVIS, III, 0000.
COL. DAVID R. HUDLET, 0000.
COL. KARL W. KRISTOFF, 0000.
COL. JOHN A. LOVE, 0000.
COL. CLARK W. MARTIN, 0000.
COL. ROBERT P. MEYER, JR., 0000.
COL. JOHN H. OLDFIELD, JR., 0000.
COL. EUGENE A. SCHMITZ, 0000.
COL. JOSEPH K. SIMEONE, 0000.
COL. DALE K. SNIDER, JR., 0000.
COL. EMMETT R. TITSHAW, 0000.
COL. EDWARD W. TONINI, 0000.
COL. GILES E. VANDERHOOF, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. JOHN A. GORDON, 0000.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. PAUL A. WEAVER, JR., 0000.

To be brigadier general

COL. CRAIG R. MCKINLEY, 0000.
COL. KENNETH J. STROMQUIST, JR., 0000.
COL. JAY W. VAN PELT, 0000.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. PETER J. SCHOOMAKER, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. LARRY R. JORDAN, 0000.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. FLETCHER C. COKER, JR., 0000.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE SECTION 624:

To be rear admiral (lower half)

CAPT. PHILLIP M. BALISLE, 0000.
CAPT. KENNETH E. BARBOR, 0000.
CAPT. LARRY C. BAUCOM, 0000.
CAPT. ROBERT E. BESAL, 0000.
CAPT. JOSEPH D. BARNS, 0000.
CAPT. JOSEPH A. CARNEVALE, JR., 0000.
CAPT. JAY M. COHEN, 0000.
CAPT. CHRISTOPHER W. COLE, 0000.
CAPT. DAVID R. ELLISON, 0000.
CAPT. LILLIAN E. FISHBURNE, 0000.
CAPT. RAND H. FISHER, 0000.
CAPT. ALAN M. GEMMILL, 0000.
CAPT. DAVID T. HART, JR., 0000.
CAPT. KENNETH F. HEIMGARTNER, 0000.
CAPT. JOSEPH G. HENRY, 0000.
CAPT. GERALD L. HOEWING, 0000.
CAPT. MICHAEL L. HOLMES, 0000.
CAPT. EDWARD E. HUNTER, 0000.
CAPT. THOMAS J. JURKOWSKY, 0000.
CAPT. WILLIAM R. KLEMM, 0000.
CAPT. MICHAEL D. MALONE, 0000.
CAPT. WILLIAM J. MARSHALL III, 0000.
CAPT. PETER W. MARZLUFF, 0000.
CAPT. JAMES D. MCARTHUR, JR., 0000.

CAPT. MICHAEL J. MC CABE, 0000.
CAPT. DAVID C. NICHOLS, JR., 0000.
CAPT. GARY ROUGHEAD, 0000.
CAPT. KENNETH D. SLAGHT, 0000.
CAPT. STANLEY R. SZEMBORSKI, 0000.
CAPT. GEORGE E. VOELKER, 0000.
CAPT. CHRISTOPHER E. WEAVER, 0000.
CAPT. ROBERT F. WILLARD, 0000.
CAPT. CHARLES B. YOUNG, 0000.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral (lower half)

CAPT. MARION J. BALSAM, 0000.
CAPT. BARRY C. BLACK, 0000.
CAPT. RICHARD T. GINMAN, 0000.
CAPT. MICHAEL R. JOHNSON, 0000.
CAPT. CHARLES R. KUBIC, 0000.
CAPT. RODRIGO C. MELENDEZ, 0000.
CAPT. DANIEL H. STONE, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE. SECTIONS 601 AND 5035:

To be admiral

VICE ADM. DONALD L. PILLING, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. CONRAD C. LAUTENBACHER, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral

REAR ADM. (LH) LOWELL E. JACOBY, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. MICHAEL L. BOWMAN, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. VERNON E. CLARK, 0000.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING REBECCA G ABRAHAM, AND ENDING ROBERT J ZYRIEK, II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

AIR FORCE NOMINATIONS BEGINNING SHARE DAWN P. ANGEL, AND ENDING DUSTIN ZIEROLD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

IN THE ARMY

ARMY NOMINATIONS BEGINNING *REED S. CHRISTENSEN, AND ENDING JAMES E. RAGAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

ARMY NOMINATIONS BEGINNING *PERRY W. BLACKBURN, JR., AND ENDING *PAUL A. WHITTINGSLOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

ARMY NOMINATIONS BEGINNING RUSSELL D. HOWARD, AND ENDING STEPHEN J. RESSLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 9, 1997.

ARMY NOMINATIONS BEGINNING DEBRA L. BOUDREAU, AND ENDING CARL M. WAGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

ARMY NOMINATIONS BEGINNING LELON W. CARROLL, AND ENDING HOWARD W. WELLSPRING, II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF PAUL D. MCGRAW, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

IN THE NAVY

NAVY NOMINATION OF JEFFREY L. SCHRAM, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 12, 1997.

NAVY NOMINATIONS BEGINNING FRANK P ACHORN, JR, AND ENDING DANIEL J ZINDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 18, 1997.

NAVY NOMINATIONS BEGINNING *FREDERICK BRASWELL, AND ENDING EDWIN A. THARPE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

NAVY NOMINATIONS BEGINNING LEIGH P ACKART, AND ENDING * JOHN A ZULICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

NAVY NOMINATIONS BEGINNING WILLIAM L ABBOTT, AND ENDING STEVEN D ZIEGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

NAVY NOMINATIONS BEGINNING WILLIAM B ALLEN, AND ENDING JAMES P WATERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

NAVY NOMINATION OF ARVIN W. JOHNSEN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

NAVY NOMINATIONS BEGINNING WILLIAM L. RICHARDS, AND ENDING DAVID A. HAWKINS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

NAVY NOMINATION OF JAMES R. PIPKIN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.