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Senate

The Senate met at 9:29 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Almighty God, we hear again the question You put before Solomon: ''Ask! What shall I give you?'' Suddenly we are challenged to identify our deepest need. We agree with Solomon's response when he asked for an understanding heart, one that listens to You and responds to Your guidance. Help us to listen attentively to You. A cacophony of other voices often limits our ability to hear what You have to say about the issues we face. We really need to hear the assurance You gave to Solomon and claim it for ourselves. ''See, I have given you a wise and listening heart.'' We urgently need that gift coupled with the gift of courage to follow Your direction.

Father, continue to bless the women and men of this Senate as they humble themselves, confess their need to hear Your voice in their souls, and give dynamic leadership to our Nation at this crucial time. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. MCCAIN. Mr. President, this morning, the pending business will be S. 442, the Internet tax bill. An agreement has been reached on the bill allowing for relevant amendments, with the addition of a Bumpers amendment regarding catalog sales. Rollcall votes are expected during today's session on or in relation to amendments offered to the Internet bill or possibly an executive nomination. In either case, the first rollcall vote today will occur by 10:30 a.m.

Members are reminded that a cloture motion was filed yesterday on the motion to proceed to H.R. 10, the financial services bill. That vote will occur at 5:30 p.m. on Monday, October 5. Also, during Monday's session the Senate may consider any available appropriations conference reports. Therefore, further votes could occur following the 5:30 cloture on Monday. I thank my colleagues for their attention.

MEASURES PLACED ON CALENDAR—S. 2529

Mr. MCCAIN. Mr. President, there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2529) entitled the ''Patients' Bill of Rights Act of 1998.''

Mr. MCCAIN. Mr. President, I object to further proceedings on this bill.

The PRESIDING OFFICER. Objection is heard and the bill will be placed on the calendar.

MEASURE PLACED ON CALENDAR—S.J. RES. 59

Mr. MCCAIN. I understand there is also a Senate joint resolution at the desk awaiting its second reading.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 59) to provide for a balanced budget constitutional amendment that prohibits the use of Social Security surpluses to achieve compliance.

Mr. MCCAIN. I object to further consideration of this matter at this time.

The PRESIDING OFFICER. The joint resolution will be placed on the calendar.

INTERNET TAX FREEDOM ACT

The PRESIDING OFFICER (Mr. ALLARD). The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 442) to establish national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exaction that would interfere with the free flow of commerce via the Internet, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the committee amendments reported by the Finance and the Commerce Committees are agreed to. The bill is considered original text for the purpose of further amendment.

Who seeks recognition?

Mr. MCCAIN. Mr. President, I am pleased that the Senate is today beginning debate on S. 442, the Internet Tax Freedom Act. Shortly, Senator BUMPERS will come to the floor to propose his amendment, and we expect further amendments following that.

Before I summarize the bill, I want to note for the record the importance of this measure. The reality is that this bill could determine the fate of electronic commerce. Without it, the economic revolution we are hoping for may never take place. Without it, electronic commerce may—and we are in fact seeing this occur—be hampered by politicians who see it as not as revolutionary, but as a source of new tax revenue.

First, I want to commend Senator WYDEN for his extraordinary leadership

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

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in moving this legislation forward. He kept all of the interested parties at the negotiating table when on many occasions it appeared as though we were at an impasse. After months of hard work and determination, we have come much closer to appeasing the National Governors' Association and other state and local organizations. Without Senator WYDEN's assistance, the bill may never have made it this far.

This bill will do the following: It would prohibit state and local governments from imposing any Internet access tax, bit tax or any multiple or discriminatory tax on electronic commerce for a two-year period.

The bill would establish a 16 member Advisory Commission on Electronic Commerce comprised of 4 Federal representatives (the Secretaries of Commerce, State, Treasury and USTR); 6 representatives of State and local government, as well as 6 representatives of electronic industry and consumer groups, all to be appointed by the Speaker of the House, the House Minority Leader, and the Senate Majority and Minority Leaders.

The Commission would exist for 18 months to study and develop policy recommendations on the appropriate domestic and international taxation and tariff treatment of transactions using the Internet, Internet access, and other comparable or international sales. The Commission's findings and any legislative recommendations are required to be transmitted to the Congress within 18 months after the bill's enactment.

The bill also includes a sense of the Congress that there should be no new federal taxes on the Internet; a requirement that electronic commerce be examined as part of USTR's annual trade estimates report; a declaration that the Internet should be free of foreign tariffs and other barriers; and a provision stating that nothing in this bill is intended to affect implementation of the 1996 Telecommunications Act.

Mr. President, we find ourselves at a critical juncture in the evolution of our economy and our society. The information technology industry, driven by the growth of the Internet, is connecting people and businesses around the world in ways we never dreamed possible.

At this critical juncture, we are faced with a choice. We can choose to hamper the growth of this vital medium by imposing old ways of thinking that just do not apply. Or we can seek new principles to govern in this new era of ubiquitous access to information, people, products, and services.

Mr. President, I hope that Congress will take this opportunity to establish new principles and ways of thinking and governing that will allow this vibrant medium to grow and flourish.

I believe we must embrace three fundamental principles: There must be no piecemeal regulation of the Internet, a medium with interstate and global reach. There must be no discrimination between goods sold over the Internet and goods sold by other means. There must be no tax on the right to access information.

The vast potential of the Internet can no longer be denied. According to one recently released research report, it took radio almost 40 years to reach 50 million listeners in the United States, while broadcast and cable television took about 13 and 10 years, respectively, to reach that many viewers. The number of Internet users in the U.S. reached 50 million users in just five years.

By the end of 1998, an estimated 100 million users will be connected worldwide. Some estimate that the Internet will soon reach 500 million users—nearing universal connectivity and access.

According to a recent Business Week article, online sales are expected to reach nearly $5 billion this year—double that of 1997. From computer software and airplane tickets to cars and investing, people are taking advantage of the Internet in new ways each day.

Now is not the time to allow complicated and unadministrable taxes to kill the tremendous potential of electronic commerce.

The Internet is creating tremendous value for business as well as consumers. The innovative use of the internet enables thousands of businesses—big and small—to establish internal networks, or intranets, that link geographically dispersed workers and information within an enterprise. Lockheed Martin and Boeing Aircraft collaborating over an Intranet developed the Darkstar aircraft in 11 months with 50 people, a process that would normally require hundreds of designers and years of work.

But a business need not be the sizer of a Lockheed Martin or a Boeing to utilize the advantages of the Internet. With the Internet, even small local companies can obtain a global reach that would otherwise have been unthinkable. A small supply company in Pennsylvania, the Lehigh Valley Safety Supply Company, realized a 150 percent increase in revenue when they placed 50 of their items for sale on the Internet.

Given the tremendous potential of the Internet, I see no reason for partisanship on an issue which is so vitally important to the future of America. I know we are in agreement that we want to see the Internet grow and expand. Everyone, including the experts, is astonished at how quickly the Internet has grown. Literally, every expert who has studied this industry has underestimated the growth that has taken place in the past few years. So it is very likely that they are underestimating the dramatic changes and growth that we will see in the future.

That is why we need a moratorium on Internet taxation as proposed in the Internet Tax Freedom Act. This bill will allow the various experts from industry and government to sit down and do the difficult work of determining how the Internet is different from other media and under what circumstances it should be taxed.

The time to act is now. Over the last several months, individuals representing government, consumers, and industry have been working tirelessly to make this a bill that achieves the goal of a temporary moratorium on confusing Internet taxing schemes while preserving the states' rights to continue collecting taxes. Those states that have been collecting Internet access taxes have been specifically grandfathered in the amendment that Senator WYDEN and I offer today so they can continue to collect those taxes during the moratorium.

The Commission created by this bill will address the issues of how the Internet and all remote commerce should be taxed. This Commission will make recommendations to Congress on how best to proceed. By working to create a clear taxing scheme for the Internet, we will continue to set an example for the world on how to nurture this vibrant medium.

Mr. President, the Internet Tax Freedom Act will allow the Internet to continue to develop and ultimately reach its full potential. Given the importance of this goal to consumers, businesses, and our global economy, I urge my colleagues to support this legislation.

Mr. President, on September 4, we received ''An Open Letter To Congress'' in support of the Internet tax moratorium legislation. It is paid for by the National Taxpayers Union, American Conservative Union, American Council of the Blind, American Legislative Exchange Council—some 60 organizations.

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

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

AN OPEN LETTER TO CONGRESS

SEPTEMBER 4, 1998.

Congress is considering various versions of Internet tax moratorium legislation. Some Members are attempting to add an issue onto these bills which we oppose. We, the undersigned organizations, oppose efforts to force vendors to collect out-of-state sales taxes when they do not have any physical presence in a state. This position is consistent with the landmark *Quill* decision by the Supreme Court, which we support.

The laudable goal behind Internet tax moratorium legislation is to create a no-new-taxes moratorium for the Internet. It would be ironic, to say the least, if Congress added a provision to this legislation that even raises the possibility for businesses, many of them quite small, to become tax collectors for the government.

Americans now pay more in taxes than they do for food, clothing, shelter, and transportation combined. The members of our organizations, like all Americans, already pay enough taxes. Some of our members are home bound, or otherwise lack the ability to visit retail stores. They like to shop at home. We strongly urge you not to add the out-of-state sales tax issue to Internet moratorium legislation.

Sincerely,

National Taxpayers Union; 60 Plus Association; American Conservative Union;

American Council of the Blind; American Legislative Exchange Council; Americans for Hope, Growth and Opportunity; Americans for Tax Reform; Association of Concerned Taxpayers; Christian Coalition; Citizens for a Sound Economy; Coalitions for America; Council for Affordable Health Insurance; Council for Citizens Against Government Waste; Empower America; Food Distributors International; Independent Insurance Agents of America.

Bill Price, Independent Living for the Handicapped; National Association for Home Care; National Association of Manufacturers; National Association of People with AIDs; National Association of Wholesaler-Distributors; National Federation of Nonprofits; National Grange; National Tax Limitation Committee; Seniors Coalition; Small Business Survival Committee; United Seniors Association; Vietnam Veterans of America; Women for Tax Reform.

CLOTURE MOTION

Mr. MCCAIN. Mr. President, in an effort to conclude this bill in a timely fashion, and with appropriations bills and other important legislation waiting in the wings for Senate action, I sent a cloture motion to the desk to S. 442, the Internet tax bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 509, S. 442, the Internet tax bill;

Trent Lott, John McCain, Wayne Allard, Connie Mack, Gordon Smith, Paul Coverdell, Spencer Abraham, Mike DeWine, Conrad Burns, James Inhofe, Judd Gregg, Rod Grams, Craig Thomas, Olympia Snowe, Rick Santorum, and Larry E. Craig.

Mr. MCCAIN. For the information of all Senators, this cloture vote will occur on Tuesday, or if cloture is invoked on the motion to proceed to H.R. 10, the financial modernization bill, then this cloture vote will occur immediately following the adoption of the motion to proceed to H.R. 10. All Members will be notified as to the exact time.

I now ask unanimous consent the mandatory quorum under rule XXII be waived.

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

Mr. MCCAIN. Mr. President, we expect Senator BUMPERS momentarily to propose his amendment. We would like to have a vote on that amendment as soon as Senator BUMPERS is able to describe that amendment adequately. We will have a rather brief response.

I thank Senator DORGAN for his continued efforts to reach a compromise on some of the differences we have had, as well as Senator GRAHAM of Florida and Senator GREGG of New Hampshire. We are close to agreement on several issues. I hope we can dispatch this legislation in an orderly fashion without having to go to cloture. It is just not something that we enjoy doing, because it prevents people, over time, from getting the attention to their amendments that they deserve. So I hope we will have an agreement and not have to have a cloture vote, and conclude this legislation as soon as possible.

Again, I thank Senator DORGAN. I yield the floor knowing that the Senator from Oregon has some important comments. I hope all of us understand as soon as Senator BUMPERS gets here we will move to his amendment as quickly as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, first let me thank the chairman of the full committee, Senator MCCAIN. I introduced S. 442 in March of 1997. Chairman MCCAIN and his staff have worked almost nonstop with me since that time to try to put together a bipartisan bill. I thank Chairman MCCAIN for all of these efforts. I share his views. We are anxious to get to the Bumpers amendment this morning. I have a few brief comments and, hopefully, we will be able to move to that expeditiously.

If ever there was an issue that called out for treatment as interstate commerce, it is the Internet. The Internet, as we all know, knows no boundaries—not Federal boundaries, not State boundaries, in effect not even global boundaries. But what we have tried to do in our efforts over the last few months, and we have done it through more than 30 separate changes, is try to be fair to all parties—the States that are trying to look thoughtfully at the ground rules for the new economy and small businesses who overwhelmingly have endorsed this legislation. For the small businesses, the Internet is a chance to compete with the Wal-Marts and other big guys because geography becomes irrelevant. So, small businesses have supported it. I think that is why we have fashioned a bill with so much bipartisan support.

The essence of this bill is that in the 21st century the new digital economy should be built on the principle of technological neutrality. The Internet should get no preference, nor should the Internet be the target of selective discrimination. Unfortunately, around the country we have seen instances, for example, where if you purchase a newspaper the traditional way, what is called snail mail, it is sent to you in your home and you pay no tax. But if you subscribe to the same newspaper via the Internet, you pay a hefty tax as a result.

Depending on what State you are in, electronic commerce may be taxed as a telecommunications service, computer service, information service, or some combination, and there are different rates around the country. My concern has long been that if a significant number of the 30,000 taxing jurisdictions in America all decide to take a bite out of the Internet, or if we have 50 States going at it individually, the Internet is going to look like Dodge City before the marshals showed up.

Chairman MCCAIN was very right, that Internet growth is going to be enormous. There is a fair amount of Internet commerce going on today, but it is going to grow dramatically in the years ahead. That is why in our legislation we seek to come up with some ground rules for the new economy, and to do it before we have to react to critical problems.

I submit the greatest beneficiaries of this legislation are not the affluent and the powerful. The affluent and the powerful have lots of tax lawyers and specialists who, if they run up against a crazy quilt of taxes on the Internet, they are not going to have any problem using all of their legions of tax specialists to deal with that kind of situation. The people who are really going to benefit from this legislation are folks like home-based businesses, one of the fastest growing sectors of our economy. My home State of Oregon has more than 100,000 home-based businesses, and in meeting with them, many of them have said that electronic commerce is the key to their survival.

For rural communities and at-home parents and disabled individuals, the online world is a gateway to economic opportunity. If somebody in a rural community has a home-based business, for example, selling fruit or jam or something of this nature, I cannot believe that there is a single Member of the U.S. Senate who would want to subject that kind of person to a score of different taxes. I don't think there is a Senator who would want to do that. That is why we have this legislation before the Senate today, to come up with a set of ground rules.

Mr. President, here is the kind of example we are going to be talking about: If the present Senator in the chair wants to send a gift basket from Harry and David's in Medford, OR, to his cousin, say, in Florida, paying for it with a bank card in New York, using America Online in Virginia, how many jurisdictions would have the opportunity to impose a tax on that kind of transaction?

There really are no ground rules for that sort of thing today, and if there were to be a hodgepodge of large, new taxes on electronic commerce, it would be especially punitive on those folks in rural States, like Colorado and Oregon. That is one of the reasons that I and Senator MCCAIN and others who have worked on this legislation have sought to bring this to the floor expeditiously.

I would like to take a minute to explain exactly what is in the bill and what is before the Senate.

First, the legislation is not going to preempt existing State and local taxes as long as they are technologically neutral. What that means is, if the authority is there for someone to pay a 5-percent sales tax when they buy a sweater in a particular jurisdiction, under the Internet tax freedom proposal, they will pay exactly the same

kind of tax if they order it on the Internet.

States that impose and enforce taxes on Internet access in place today are going to be able to keep them. None of the States that tax Internet access today actually has a law on the books that expressly authorizes the taxation of Internet access, but as we heard in the hearings before the Commerce Committee, there are a variety of problems already cropping up as a result of administrative rulings and reinterpretations of existing law.

In fact, there is one major firm, Vertex, which has tried to sort through the status at the State level of how the Internet is being taxed. In a number of States, they basically said that they couldn't give a clear answer, but if anybody was interested in doing a business deal, a deal involving electronic commerce that touched on that particular State, they would be wise to get a consultation.

The legislation will not allow any State to attempt to impose or assess or attempt to collect a tax on Internet access after October 1, 1998, unless it already had done that with a tax in effect.

It is very clear that we are trying to be sensitive to the laws in place and the concerns of the States, but at the same time making sure that there is not going to be an opportunity for discriminatory taxes on electronic commerce.

In effect, what this legislation does is it ensures a timeout so that the commission of experts called for in the legislation can study these complicated questions and make sound policy recommendations to the Congress. But during that time, we take steps that we believe will be critically important to the development of electronic commerce as it relates to the smallest concerns in America. For example, the legislation assures that a web site is treated exactly like a mail-order catalog for purposes of interstate sales, so the taxing jurisdiction cannot attempt to impose a tax on a web site with respect to an out-of-State computer server.

The fact is, the online world is racing past outdated policies. The ground rules that we seek to establish here are just the beginning of what I think is going to be needed for the digital economy.

We have begun to debate in the Commerce Committee a variety of other issues. Yesterday, an important bill of Senator BRYAN's was passed dealing with online privacy concerns as they relate to children. We may hear more about that before the end of the session, but I think that with this legislation we will begin to get the common definitions, the more clearly defined principles and standards, that are going to be essential for Internet commerce to go forward.

Recently, I was home and met with some small businesses, and one of them said that he was very excited about the work that we were doing on this legislation. He said: ''Just understand that I am not going to be able to grow my Internet business if there are 30,000 taxing jurisdictions all with their hands in our pocket.''

The American taxpayers made it clear of late how they regard the IRS. If we were to have thousands of small jurisdictions collecting Internet taxes, I think that the concern we would have with respect to the IRS would be multiplied many times over at the thought of thousands of mini-IRS-taxing authorities collecting Internet taxes.

I see that Senator BUMPERS has arrived. I want to say, as Senator BUMPERS comes to the floor and prepares his amendment, that I have agreed with him on a great many concerns over the years. I have agreed with Senator BUMPERS about Social Security and the many times that he has led this body to take on spending boondoggles, environmental concerns, and the like. We don't happen to agree on this issue. I think it would be a mistake to let each State have its own sales tax arrangement for the Internet. It would certainly jack up taxes dramatically on the 100,000 home-based businesses in my State and the thousands of others across the country. I do think that if we have the States going off in their own directions, we do run the real risk of having the Internet look like Dodge City before the marshals showed up.

I will conclude by way of saying that Senator BUMPERS has worked very closely with this Senator, knowing that it is particularly important to me. We have gotten agreement on a number of key questions, and that was critical to getting the legislation to the floor.

I want the Senator to know that he is going to be somebody whom this Senator will miss very, very much next year when I cannot look over and see Senator BUMPERS and get his counsel on everything from Social Security to spending boondoggles. I thank him, because he has been aware that this legislation has been a priority of mine. I know he has strong feelings about it, and he was gracious enough to let it come forward and let us get these matters resolved. I express my appreciation to Senator BUMPERS.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have not made an opening statement on this piece of legislation. I will do that at some future point. I want to allow the Senator from Arkansas to proceed with his amendment. I will, at some more convenient time, make an opening statement.

I have some very strong thoughts about a whole range of issues, including the issue that is going to be raised by the Senator from Arkansas.

But I think in an attempt to try to move this along—we want to get to a first vote on this at some point—I will ask the Senator from Arkansas to proceed and then at some point in the proceeding I will make an opening statement.

AMENDMENT NO. 3677

(Purpose: To authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself and Mr. GRAHAM, proposes an amendment numbered 3677.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. BUMPERS. Mr. President, first, let me thank my very good friend, my distinguished colleague from the great State of Oregon, Mr. WYDEN, for his very kind and gracious comments. He talked about how he is going to miss me. Rest assured, wherever I am, if he will just raise the window, he can probably hear me.

But on a more serious note, I consider Senator WYDEN to be one of the finest additions to the U.S. Senate in my 24-year tenure here. He is truly becoming a great Senator, but more than anything else he has great values. Great values are the first thing you have to have to be a good Senator. So while I am prepared to leave at the end of this year, Senator WYDEN is one of the Senators I will certainly miss.

Let me just start off by saying, this amendment deals with the rights of States to require mail-order catalog houses to collect sales taxes on merchandise shipped into their States.

L.L. Bean, which does over $1 billion a year, ships a lot of merchandise into my State of Arkansas, as does Lands' End, as does 6,000 or 7,000 other mail-order catalog houses; and they do not pay one cent of tax to the State of Arkansas. They do not pay one cent of tax to any State. And I will tell you why.

In 1967, the Supreme Court said, in the National Bellas Hess v. Department of Revenue case, that States may not require mail-order catalog houses to collect use taxes for them because it violates the due process clause in the Constitution, No. 1, and, No. 2, it violates the interstate commerce clause of the Constitution—finis, end of story.

In 1992, as mail-order catalogs sales began to mushroom in this country, and States could see that their tax base was being eroded—incidentally, we depend on the sales tax in our State for 50 percent of our educational funds—being eroded by this constant stream of catalogs coming into people's homes every day through the mailbox—I have been checking; I have been averaging between 5 and 10 a day

for the past year—North Dakota said, ''Enough is enough.'' So they brought a lawsuit that resulted in the Quill decision in 1992.

They tried to get the Supreme Court to reverse the Bellas Hess decision that prohibited States from making mail-order houses collect sales tax. It is called a use tax. It is the same thing, but if it comes from out of State we call it a use tax. And the Supreme Court, in a very rare remarkable case of sanity, said, ''We hereby reverse the National Bellas Hess case to the extent that we hold that the requirement of a State to make mail-order houses collect sales taxes on goods coming into their States no longer—no longer—violates the due process clause. However, we are not removing our objection to the fact that we believe the State's right to tax mail-order houses still is a violation of the interstate commerce clause.'' Now because the Commerce Clause grants Congress exclusive authority over interstate commerce, Congress may, if it chooses, grant the states the authority to require out-of-state tax collection.

So here we are on October 2, 1998, about my sixth year to try to do something about this patently unfair proposition, asking Congress, please, do not impose a tax. My amendment does not impose a tax on anybody; it does not require the States to impose a tax on anybody. It simply does what the Supreme Court said in 1992 we had a right to do, and that is to give the States the right to require out-of-state sellers to collect sales tax on any goods they ship into that State. And what is wrong with that?

You know, in 1995, I offered this amendment to the unfunded mandates bill, stood right here where I am standing now, made the same speech I am making today. You remember the distinguished Senator from Idaho, Senator KEMPTHORNE, offered the unfunded mandates bill. I never saw as many tears shed in the U.S. Senate in my life as I saw during that debate—crocodile tears, of course—for those poor States and counties and municipalities that the Government was always imposing mandates on. We passed laws, and we said to the States and the counties and the cities, ''You have got to do this; you must do that.'' And it was costing the States ''gazillions.'' They said, ''Let's get that old, mean Federal Government off the backs of the States and local governments. And in the future, any time Congress passes a law that mandates that the States and local governments do anything, we will make a computation of what it is going to cost the States to comply with it, and we will send them the money.'' I did not vote for that. I did not vote for it for a lot of reasons. I am not here to debate that one all over again. That is a done deal.

But the interesting thing is, when I offered this amendment on the unfunded mandates bill, I said, ''Here is a mandate that you're imposing on the States by doing nothing. If you're so concerned about the States and local governments, why don't you help them with the biggest unfunded mandate of all?'' It is about $4 billion a year we impose on the States by saying, you cannot collect taxes on anybody but the poor old sucker on Main Street who collects the tax on every sale, every bag of groceries, every refrigerator, every automobile, if he happens to live in your hometown or your State.

Yes, I was a Main Street merchant as well as a jackleg lawyer. I had a hardware, furniture and appliance store. And the catalog houses were my biggest competitors, not the guy down the street—the catalog sales. I was President of the Chamber of Commerce.

I arranged for the annual banquet. I was in charge of the Christmas parade. I was on the school board. I did all of those things to make my town a decent place to raise my children. And I made everybody who bought a dollar's worth of goods pay 3, 4 or 5 cents in sales taxes. It went to teachers' salaries. It went to law enforcement, police officers, and to sweep the streets. It went to test the purity of the water we drank. That is what we depended on, the sales tax. But only, of course, if you happen to live there.

Now, think about the fact that mail-order houses in this country are selling over $100 billion worth of goods through the mail. There are a few who collect this tax. Do you know why? Because they know it is right. Ask Senator BENNETT from Utah, a big stockholder and one of the original finders of a big mail-order house called Franklin Quest about collecting use taxes. Don't take my word for it. Ask Senator BENNETT what they did. I will tell you and let him ratify it. They sat around the table and said, ''Shall we or shall we not collect sales taxes for the States in which we sell merchandise?'' He said they discussed it and they concluded that, as good citizens, they should. And they did. I said, ''Bob, when I was chairing the Small Business Committee and held hearings on this subject, they always talked about how complicated and difficult it was because there are 7,000 taxing jurisdictions in this country.'' He said, ''Don't be fooled by that. Every month we push a computer button and it is done. It isn't complicated at all.''

Now, 7 or 8 years ago when I started this, that was the principal debate—''It is so complicated. It is just so much paperwork, we can't do it.'' You rarely hear that argument anymore, since Senator BENNETT came and since I have enlightened this body about what he said. He is immensely respected here.

The NFIB—I don't know where they are now—in 1995, they said only about 35 percent of their people wanted Congress to take this action. I was getting ready to say something unkind, but I won't pursue that any further.

I simply want to say to my colleagues, where do you think this country is headed? The underlying bill is to give all sales on the Internet a free ride. The bill before the Senate is a 2-year moratorium. There will be amendments offered here to extend the moratorium to 3 or 5 years.

Listen to this, colleagues, because as I say, I am not lambasting Senator WYDEN's bill on Internet taxes. I am simply fortifying the argument I want to make on remote sales. That is, right now in 1997 Internet sales were roughly $8 billion. It is now estimated that by the year 2002 Internet sales will be $300 billion. You can buy an automobile on the Internet, no sales tax; you can buy a refrigerator; you can buy your furniture; you can buy anything you want on the Internet.

Now, if we are looking at Internet sales of $300 billion a year by the year 2002, what will they be at the end of 5 years and how much revenue will the States have lost? I ask my colleagues, why in the name of God will you go back home and tell the chamber of commerce your heart is in the right place, you are for small business, you are for Main Street merchants, and turn right around and put them at a hopeless, competitive disadvantage? Why? Why should I organize the Christmas parade, pay my taxes to go to the schools, taxes for law enforcement, the fire department, while other people ship 4 million tons of catalogs into the States for them to dispose of?

Ask any mayor, any Governor, what is their biggest headache? Almost invariably, it will come back, ''We need more money.'' Secondly, ''Our biggest headache is the landfill.'' Not only do states have to dispose of 4 million tons of catalogs, they also have to handle the boxes and the crates that the merchandise comes in. How can the catalog people tell us, ''We don't cause a burden. We are no burden to the local jurisdictions. Why do you want to tax us? We don't send our children to school in Charleston, AR. Why should we pay sales taxes?''

I will tell you precisely why they should. Because the revenue base of the States and local jurisdictions of this country is being eroded to the point where it will wind up being about half of what it is right now or less. Let me ask you a better question: Why shouldn't they pay a sales tax and compete with the people who live in those communities that have to pay taxes? It is a mystery to me.

I don't take on these causes that I continue to lose for the fun of it. I take them on because I feel strongly about them. In 1995, the Senator from Maine, Mr. Cohen—who is now Secretary of Defense—and I got into a debate here. They said the Finance Committee had not even held a hearing. Of course, the Finance Committee hadn't held a hearing, the chairman of the Finance Committee doesn't favor this bill.

Do you know something else? Somebody else said, let's study this. That is always the way out, ''Let's study it.'' For 7 years on the mining laws, they

said we need to study this. We have been studying the mining laws since 1872, and the law is still fully intact, just as crass, just as base, just as unfair now as it was in 1872, and we are still studying it.

We will study this some more. Somebody will make the suggestion, ''We have to study this. We don't know what the full impact of it is.''

Let me shift gears a moment to another item, and this is always shocking to anybody you tell it to. Unhappily, most things said on the U.S. Senate floor don't get any higher than the dome here. Nobody hears it. Forty-five States in this country have a use tax. Arkansas has one. It says to L.L. Bean, if you ship merchandise into Arkansas, the person you sell it to is liable for the Arkansas use tax. It is the same thing as a sales tax. In my State, it is 5 percent.

How many people in Arkansas do you think realize that when they buy something from a remote seller, they are responsible for that use tax? Maybe about 1 in 200,000. Nobody knows it. Yet, 45 States have it. Just 10 to 15 States—I forget which number—but it was 10 in 1995; so it is maybe 15 or 20 by now—have laws that say you must report on your State income tax whether or not you bought anything from out of State.

Now, the State of Maine does something that is really unique and, in my opinion, patently unconstitutional. If you live in Maine, when you fill out your income tax return, there is a line that says, ''Did you buy anything from out of State?'' You put in ''yes'' or ''no,'' and if the answer is yes, you put the amount down.

Let's assume you bought some furniture for $1,000. I don't know what the sales tax is in Maine, but if it is 5 percent, you are liable for $50. ''Please multiply 5 percent times the amount you bought.'' And so everybody kind of routinely ignores that because they don't want to pay it and they don't have to admit that they bought anything from out of State.

So do you know what else Maine does? They say that if this line is empty and you don't report having bought anything out of State from a mail-order house, please multiply .0366 times whatever your income is. If you make $30,000 a year, you put $11 on that line.

As I say, in my opinion, that is powerfully unconstitutionally. That is a tax that nobody ought to have to pay, and it is the wrong way to do it. A lot of people get rude awakenings. One couple from Florida went up to North Carolina because they saw this big catalog saying, ''Buy your furniture at the factory in North Carolina and pay no sales tax.'' Not many people do this anymore. When I started in on this issue years ago, it was very common. Or, ''Buy your tile or your linoleum for your kitchen from''—such-and-such—''no sales tax.''

So this couple went from Florida to North Carolina and bought $25,000 to $35,000 worth of furniture. Later on, the North Carolina furniture company is audited and they find that they have sold this couple in Florida, as well as couples in a lot of other places, $25,000 worth of furniture. They notify Florida, and Florida calls these people up and say, ''You owe us $1,000,'' or whatever it is. Now, that is a rude awakening, isn't it? You thought you bought something that was tax free and you find out, to your regret, that you didn't.

Well, Mr. President, I have just been handed a note that the majority leader wants to have a vote. Frankly, I don't like being interrupted in the middle of a debate. It is nothing but a bed check vote. But the majority leader apparently wants the floor by 10:30 and they want me to yield the floor. I got a note that I was going to yield so that Senator LEAHY and somebody else could talk about a judicial nomination. I don't see Senator LEAHY here. I don't see Senator HATCH here. Neither one of them is half as entertaining as I am either.

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

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

EXECUTIVE SESSION

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider Executive Calendar No. 529, the nomination of Sonia Sotomayor to be a U.S. circuit judge for the second circuit.

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

NOMINATION OF SONIA SOTOMAYOR, OF NEW YORK, TO BE A UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The legislative clerk read the nomination of Sonia Sotomayor, of New York, to be a United States Circuit Judge for the Second Circuit.

Mr. MCCAIN. Mr. President, I ask unanimous consent that there be 20 minutes for debate equally divided in the usual form. I further ask consent that following the debate the Senate proceed immediately to a vote on the confirmation of the nomination. I finally ask consent that following that vote the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

Mr. MCCAIN. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, the chairman of the Judiciary Committee is delayed in a committee of conference, but I understand that he has no objection to this side beginning on this nomination. I also notify colleagues that if we reach a point where neither side has further members wishing to speak on the nomination, it is going to be the intention of the managers to yield back whatever time we have. I mention that so that people understand that it is possible that this rollcall may occur sooner than 20 minutes from now.

Mr. President, at long last, this day has finally arrived. Senate confirmation of Judge Sonia Sotomayor has been stalled for 7 long months without any explanation or justification. I have spoken on behalf of this outstanding nominee more than a dozen times. In fact, the most recent time was Monday of this week. I hope that now those who have had the secret hold on this nomination will come forth and claim ''credit'' for preventing this qualified nominee from helping end the emergency that has confronted the Second Circuit since March. Throughout all the time that there have been secret holds that have kept her nomination from going forward, she has been denied her rightful seniority on the court as others have gone forward. It has not been the Senate's finest hour.

I recall the glowing statement of support from Senator MOYNIHAN to the Judiciary Committee at her hearing back in September 1997, a year ago. I appreciate, as well, the strong statement Senator MOYNIHAN made to the Senate on behalf of this outstanding nominee this summer when her nomination was being stalled. I very much appreciate the efforts he has made on behalf of this outstanding nominee. He has been persistent in his support and in seeking to bring this nomination to the floor without delay. As members of the minority party, that has been a very, very difficult task.

Along with a number of Senators, I wrote to the majority leader on April 9, 1998, urging ''prompt and favorable action on the nomination of Judge Sonia Sotomayor.'' We noted then the judicial emergency that had to be declared by Chief Judge Winter of the Second Circuit. Since March 23, he has had to cancel hearings and proceed with three-judge appellate panels that contain only one Second Circuit judge. That crisis is continuing.

What is happening is when they have these three-judge panels, only one of the judges is from the Second Circuit. They have to bring judges from elsewhere, or retired judges to hear cases. Judge Sonia Sotomayor's nomination has taken over 15 months in spite of

the emergency that plagues the Second Circuit.

We have seen the strong support for this nominee from the Congressional Hispanic Caucus and from the Puerto Rican Bar Association, the Hispanic National Bar Association, and many other bar associations around the country. We have received literally thousands of letters of support for this nominee.

Late this summer, a column in the Wall Street Journal noted that Judge Sotomayor was being held up on the Republican side of the aisle because of speculation that she might one day be considered by President Clinton for nomination to the United States Supreme Court. This was confirmed by a report in the New York Times on June 14.

As I said earlier, this has not been the Senate's finest hour.

How disturbing and how shameful: trying to disqualify an outstanding Hispanic woman judge by an anonymous hold. Here is a highly-qualified Hispanic woman judge who should have been confirmed to help end the crisis in the Second Circuit more than seven months ago.

How petty, how mean, how wrong to cost this judge the seniority she should have had on the Second Circuit by someone anonymously holding her up on the other side of the aisle.

I note very clearly for the RECORD that every time the question of her nomination came forth, it has been made clear that every single Democrat said they were prepared to go forward with her nomination. Every single Democrat said they would vote for her.

When she is confirmed as I fully expect she will be, she will be only the second woman and second judge of Puerto Rican descent to serve on the Second Circuit. Judge Sotomayor is a source of pride to Puerto Rican and other Hispanic supporters and to women everywhere.

Judge Sotomayor is a highly qualified nominee who was confirmed to the United States District Court for the Southern District of New York in 1992 after being nominated by President Bush. She rose from a housing project in the Bronx to attend Princeton University and Yale Law School. She worked for over four years in the New York District Attorney's Office as an Assistant District Attorney and was in private practice with Pavia & Harcourt in New York.

She has been a fine District Court Judge. It was Judge Sotomayor who issued a key decision in 1995 that brought an end to the work stoppage in major league baseball. She applies the law. In this, as in her other decisions, Judge Sotomayor followed the law. That is what judges are supposed to do. There is no basis for a charge that she is or will be a judicial activist.

In his annual report on the judiciary this year on new Year's Day, the Chief Justice of the United States Supreme Court observed: ''Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote.* * * ''The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.''

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its members—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees in the 104th and 105th Congresses, the Senate is shirking its duty. When those nominees are women or members of racial or ethnic minorities, this is especially disturbing.

Today, after holding this nomination for seven months on the Senate calendar, the Senate will finally get a chance to vote on the nomination of Judge Sonia Sotomayor to the Second Circuit. I look forward to our taking action to confirm this outstanding nominee.

Mr. President, obviously I am not going to put this in the RECORD. But I would just note that this two-foot stack of papers contains some of the letters from distinguished lawyers and distinguished bar associations from all over this country—from prosecutors and defense attorneys alike; from people who do appellate work and those who do not; from every spectrum of the bar. These are all letters from people who support the nomination of Judge Sotomayor. These are people who can now finally get a response, a response indicating that this superb candidate is finally being considered by the Senate, that the anonymous holds are no longer being allowed to restrain her nomination, and that the Senate finally walked out into the daylight to vote. I have every confidence that vote will be a favorable one and that she will finally be confirmed—even though she was unjustly denied the seniority she would have gotten had the confirmation gone forward on schedule.

Mr. President, I understand there is no one else seeking to speak on either side. And I have been told by the Republican side that I have permission to yield back their time. I yield their time. I yield our time. We are prepared to vote.

The PRESIDING OFFICER. All time having been yielded, the question is, Will the Senate advise and consent to the nomination of Sonia Sotomayor of New York to be the United State Circuit Judge for the Second Circuit? 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 Missouri (Mr. BOND) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Illinois (Ms. MOSELEY-BRAUN) are necessarily absent.

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

The result was announced—yeas 68, nays 28, as follows:

[Rollcall Vote No. 295 Ex.]

YEAS—68

Akaka	Durbin	Lugar
Baucus	Feingold	Mack
Bennett	Feinstein	Mikulski
Biden	Ford	Moynihan
Bingaman	Frist	Murkowski
Boxer	Graham	Murray
Breaux	Grams	Nickles
Bryan	Gregg	Reed
Bumpers	Harkin	Reid
Byrd	Hatch	Robb
Campbell	Helms	Rockefeller
Chafee	Inouye	Roth
Cleland	Jeffords	Santorum
Coats	Johnson	Sarbanes
Cochran	Kennedy	Smith (OR)
Collins	Kerrey	Snowe
Conrad	Kerry	Specter
D'Amato	Kohl	Stevens
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Warner
Dodd	Leahy	Wellstone
Domenici	Levin	Wyden
Dorgan	Lieberman	

NAYS—28

Abraham	Gramm	McConnell
Allard	Grassley	Roberts
Ashcroft	Hagel	Sessions
Brownback	Hutchinson	Shelby
Burns	Hutchison	Smith (NH)
Coverdell	Inhofe	Thomas
Craig	Kempthorne	Thompson
Enzi	Kyl	Thurmond
Faircloth	Lott	
Gorton	McCain	

NOT VOTING—4

Bond	Hollings
Glenn	Moseley-Braun

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid on the table and the President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. BURNS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

INTERNET TAX FREEDOM ACT

The Senate continued with the consideration of the bill.

Mr. MCCAIN. Mr. President, what is the parliamentary situation?

AMENDMENT NO. 3677

The PRESIDING OFFICER. The Senate is considering the bill, S. 442, and the amendment offered by the Senator from Arkansas is the pending question.

Mr. MCCAIN. Mr. President, I am going to propound a unanimous consent request for a time agreement so that Members can know when the next vote will take place. I thank my colleagues for their cooperation. Perhaps not all time will be used.

I ask unanimous consent that prior to the vote on the Bumpers amendment, the following time be allocated:

10 minutes for Senator DORGAN, 10 minutes for Senator BUMPERS, 10 minutes for Senator GRAHAM of Florida, 10 minutes for Senator SNOWE and 5 minutes equally divided between Senator MCCAIN and Senator WYDEN.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, and I shall not object, I want to include, if it is agreeable with the manager, 2 minutes for the distinguished Senator from New York to speak on the previous nomination.

Mr. MCCAIN. Will the Senator repeat that?

The PRESIDING OFFICER. Will the Senator repeat the request? Can we have all extraneous conversations taken to the Cloakroom?

Mr. BUMPERS. I suggest to the distinguished floor manager that I will not object to his request, but I want to include 2 minutes immediately for the distinguished Senator from New York to speak on the previous nomination.

Mr. MCCAIN. Mr. President, I ask unanimous consent that prior to resuming debate, the Senator from New York be recognized for 2 minutes.

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

Mr. MCCAIN. I understand the unanimous consent request is now agreed to, Mr. President.

The PRESIDING OFFICER. The Senator is correct.

The Senator from New York is recognized.

NOMINATION OF SONIA SOTOMAYOR, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

Mr. MOYNIHAN. Mr. President, the Senate has just passed an enormous milestone in the composition of the American judiciary with the confirmation of Judge Sonia Sotomayor for the appointment to the second circuit court of appeals. It is a fine day for New York, I might say specifically for the Bronx, a fine day for the judiciary.

I thank our distinguished Judiciary Committee chairman, Senator HATCH, Senator LEAHY, and the majority leader, Mr. LOTT, and his colleague, Mr. DASCHLE, and, of course, my colleague, Senator D'AMATO.

It was 7 years ago in March that I had the honor to nominate Sonia Sotomayor to serve on the southern district of New York. President Bush placed her name in nomination, and she was sworn in directly on October 1992. Her subsequent experience on the bench has been admirable. In 5½ years, she has presided over 500 cases and has been overturned only 6 times. She has presided over cases of enormous complexity with skill and confidence that would befit the editor of the Yale Law Journal and a person who rose from the most simple circumstances in south Bronx to the eminence she is now assured.

I thank the Senate, I thank all those involved, and I thank, not least, my friend from Arkansas for yielding me this time.

INTERNET TAX FREEDOM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3677

Mr. BUMPERS. Mr. President, let me remind my colleagues of a very simple fact. Don't vote against this amendment because you want to go home and tell your constituents that it imposes a new tax. It does not. For all of you people, when we talked about unfunded mandates, who talked endlessly about States rights, this is a classic States rights issue. If you vote against my amendment, you are saying to the States: We don't trust you; we are not going to let you collect new taxes on remote sales; we are going to stand by while your tax base is eroded, while you try to raise property taxes in order to pay for schools, but we simply cannot trust you and, therefore, we are not going to give you the authority.

I am telling you—I do not know how I can say it more dramatically, more graphically—as a former Main Street merchant, I can tell you it is patently unfair to make the people of my State and your States make Main Street merchants collect sales tax on every single dime they take in, but if you want to move just across the State line and ship it back into the State, you can do it and not charge any sales tax.

I had a cousin who bought a fur coat in New York. The clerk said, ''You sound like you're southern.'' She said, ''I am. I'm from Little Rock.'' The clerk said, ''Why don't you let us mail this coat to you? That way you won't have to pay this $100 or $300''—whatever it was—''in sales tax.'' She said, ''Fine. Just mail it to me.'' That is the kind of thing that is going on, and it is going to continue to go on.

On your desk, in about 10 minutes, you will find the list of people in this country who strongly favor the BUMPERS amendment. You know who they are? They are the Governors; they are the mayors; they are the city councils; they are a whole host of Main Street merchant organizations. Look at it before you vote, and figure out what you are going to say to them the next time you address their organizations on why you didn't vote for this amendment. Tell the Governors why their tax base is being eroded.

Mr. President, we exempt in this bill—listen carefully—we exempt every mail-order house in the United States that does less than $3 million a year. That exempts about 89% of the mail-order companies in the United States. My amendment would make the States put in a 1–800 number so any mail-order house that is confused can call the State and find out what that State's rule is. We have a blended rate so that the mail-order house only has to collect one rate and the States will distribute it between the cities and the counties. We have done everything in the world to make this as easy as possible for everybody.

Mr. President, here is an article from the New York Times this morning. There is a copy of the article on every member's desk. This article make all the arguments that I have made here this morning.

Let me tell you one other argument they make that I have not made, and that is that people who buy on the Internet are the wealthiest people in the country. They are the ones who are doing most of the buying, because they have Internet access. So if I am a wealthy person, I have a computer in my home, and I am on-line, this sales tax loophole favors me. The guy making $6 to $10 an hour does not have a computer in his house. He does not know what is available on the Internet. It is another way of discriminating against those who have the least.

Mr. President, I am really sorry that we are in such a rush. I know a lot of people want to catch planes, and I am sympathetic to that. I have been in that situation myself. But I want to say, No. 1, please read the New York Times article; please look at the list of people that will be on your desk in about 5 minutes who support this amendment; and, finally, if you are going to vote against this amendment, please figure out what you are going to say to the mayors and the Governors who have the responsibility of keeping the schools open, who have the responsibility of funding the fire departments, who have the responsibility of funding the police departments, keeping the streets clean, keeping the landfills in compliance with EPA rules, and all the other things that cost ''gazillions'' of dollars across the country. Ask them why they are not allowed to collect a little tax to at least help pay the landfill for covering up 4 million tons of catalogs a year, if nothing else.

So, Mr. President, I know everybody is in a hurry. And I guess I have said about all I need to say. I see Senator DORGAN on the floor who wants to speak and who has time allocated. So, Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me, in just the 10 minutes that I am allotted, make a comment about the amendment offered by Senator BUMPERS and also to comment about the underlying bill.

Senator BUMPERS offers an amendment that I think is very important and one that I intend to vote for and feel is a good amendment. The bill brought to the floor of the Senate, in its original form when it was passed out of the Commerce Committee, was totally unacceptable to me. I voted against it, worked against it, and felt

its provisions were counterproductive. But since that time, the Senator from Oregon, Senator WYDEN, Senator MCCAIN, I, and others, have worked together; and the bill that will now be presented—I believe changed also by the managers' amendment—is a piece of legislation that has merit. But I think the legislation will be improved by the amendment offered by the Senator from Arkansas as well.

This legislation is called the Internet Tax Freedom Act. And all of us understand that the information superhighway and new technology mean that commerce in this country is changing. Nowadays, if you want to buy a book, you can walk down to a bookstore someplace and buy a book. You might be able to look in a mail-order catalog and buy a book, or you might be able to go to your computer and buy a book. In either of those cases, you are a consumer purchasing a book.

You can do the same with a saddle, if you happen to ride horses. You can do the same with a car. For that matter, you can do the same with virtually all merchandise these days. And the Internet, used for commerce purposes, is exploding all around us.

The question is: When people are accessing the Internet or, for that matter, a mail-order catalog, or going downtown to make the purchase at a local business, what are the tax consequences? What kind of taxes do they pay? To whom do they pay those taxes? These are important issues.

I am not someone who believes we ought to impede the use of the Internet in any way with punitive taxes. I believe that if there are punitive or discriminatory taxes that would impede the ability of the Internet to serve this country's commerce interests, then let's stop that, let's prevent the States from doing that. I have always said to the Senator from Oregon, who has been a leader on this issue, you and I do not disagree on that score. If there are taxes imposed that are punitive, then I say, stop it. But the other question that is raised by the Senator from Arkansas is a very important question.

Someone decides to start a store on the main street of Fargo, ND, or Little Rock, AR, and they decide to open for business. They rent a place, buy a sign and put it out front. They hire some people to work in the place, get some inventory in, and then they open the door. And they are proud; they have some flowers around for their grand opening. There they are; they are in business. Then someone walks down the street, sees their picture window, goes on in, and buys a product.

When that person buys that product, in Little Rock or in Fargo, ND, that person is going to pay the local retail taxes that are imposed by that State. That is the way it works. That is the way it always works.

Then we see an increase in mail-order sales. What happens with mail-order sales is that someone sends a catalog into the home. The person sitting in a home orders the same products, does not go down to a store to order but just orders it through the mail, and gets those products sold without a sales tax attached. If that State has a 6-percent sales tax, it means that catalog seller has about a 6-percent advantage over the person who has hired the employees, rented the building, and holds himself open for business on Main Street.

The Senator from Arkansas is correct—and I think not many people know this—when the person orders from the mail-order catalog and gets the merchandise, that individual has a responsibility—in almost all the States—to pay a use tax. Most people will never do that because they do not know that requirement exists, don't have the forms to comply in any event, and would not want to fill out a set of forms for 86 cents or $1.86. So the fact is, it does not happen.

Now, add to mail-order catalog sales the question of Internet sales. And what are the tax consequences there? What will be the impact on the Main Street businessperson who is competing with that Internet seller, competing with the mail-order seller? What will be the impact on that Main Street merchant? That is the question that is raised by the Senator from Arkansas. It is a very legitimate question.

I come from the Jeffersonian wing of my political party. The Jeffersonian wing believes, as Thomas Jefferson did, that this country is made strong by broad-based economic ownership. A lot of men and women across this country are in the market system, opening up for business, with a network of small businesses doing business all across America. We ought to be mindful of how those folks on Main Street that are risking all their savings to open their businesses are treated with the tax system. If you are a real person that has a business on Main Street you are treated one way for tax purposes, but if you have a catalog firm or Internet selling operation you are treated a different way.

The Internet Tax Freedom Act, at its roots now, as it has been changed, is an attempt to say we don't want anybody to see this Internet system as some huge peach out there that they can take a big bite out of for tax purposes in a way that is punitive and impedes or retards the growth of Internet. I agree with that.

But the Senator from Arkansas raises another question: Do we want the Internet and/or mail-order sellers to have an advantage over the folks who open their businesses on Main Street with respect to the imposition of State and local taxes? The answer to that ought to be no. This ought to be tax neutral. The whole system ought to be tax neutral. No matter how you are selling your product, you ought not be in a circumstance where you are selling it at an advantage over the person that hired the people, found the location and is open for business on Main Street. That is the point the Senator from Arkansas is making.

This is not a new issue, incidentally, for mail-order catalogs, but it certainly is a new issue with respect to the Internet.

I guess it was probably 7 years ago when I was in the other body serving on the Ways and Means Committee, probably 8 years ago, and got a bill through the subcommittee on the Ways and Means Committee to do just exactly what the Senator from Arkansas is proposing. It was very controversial. It never got beyond the subcommittee. I got the subcommittee to vote it out. But then our committee got millions of post cards from across the mail-order spectrum saying that the attempt here was to increase taxes. That is not true at all. The Senator from Arkansas doesn't propose, and I would never propose, we increase taxes on transactions. That is not the case. There is no proposal here that would increase anybody's tax.

The question here is: How do you treat different kinds of commerce in a way that is fair with respect to the imposition of State and local taxes? Some say let's treat it in this way: Have the Federal Government set itself up as the referee and create moratoriums and prohibitions and all kinds of mandates with respect to the State and local governments. I don't happen to favor that. I don't think that is the right approach.

Others say let us find a way to be helpful to the State and local governments to do what is necessary to even this out so we don't have discriminatory taxes imposed on one kind of seller versus another kind of seller. That is what I think is addressed by the Senator from Arkansas.

I do want to mention with respect to the larger bill that is before the Senate, this is very important. If this is done in a way that is inappropriate, in a way that we really don't understand, in a way that changes words sufficient so that we have a blizzard of litigation in all the State courts all across the country or in a way that creates safe harbors for certain kinds of people doing certain kinds of business or punitive tax treatment because competitors are not faced with the same consequences, then we will have done a disservice.

The moratorium that is described in the legislation is a moratorium that I think is appropriate. It says let's take a time out for a few years. We will take a time out and we will evaluate where we are. We will grandfather the States that have certain kinds of taxes, but we won't impose different taxes until we understand what we are doing here. I agree with that.

The New York Times in their editorial this morning says the Senate, which debates this bill today, should resist extending the moratorium to 5 years. I agree with that, as well. We will have Members come to the floor and say, ''Gee, the moratorium is a

great idea. Let's slap a moratorium on the States.''

I support a thoughtful, sensible moratorium to give time regarding what is happening here, but a 5-year moratorium is far too long. Those who propose that with an amendment—I am sure they will; I am told they will—I hope we can defeat a 5-year moratorium. That is wholly inappropriate.

Those are the comments I want to make in support of the effort made by the Senator from Arkansas. He does the Senate, in my judgment, a real service. As he leaves the Senate, I will miss him walking up and down the aisle telling us about his home State, but I will miss him most importantly for the causes he fights for and the aggressive, energetic manner that he fights for these important things. Sometimes he wins, sometimes he loses, but the prospect of winning and losing doesn't affect the kind of things he knows in his heart are right. He is as aggressive as anybody in this Senate in fighting for the things he finds important.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I urge my colleagues to vote favorably on the amendment offered by the Senator from Arkansas. It meets some basic tests. It meets the test of essential fairness.

We have today in this country a situation in which if Main Street were divided north and south, all of the stores along the northern part of Main Street are meeting their obligations to collect the appropriate State and local tax which is levied by their locally elected officials within that State and which are used to support State and local government. But the stores along the south side of Main Street are treated differently because the south side of Main Street is in another State, in another jurisdiction. Therefore, the sales that are made on the south side of Main Street are not subject to the requirement of collection by the seller as are the stores on the north side of Main Street.

Therefore, if you go into a clothing store on the north side of Main Street and buy a suit, shirt, dress or shoes, you will pay and the store will collect and remit to the State those taxes which have been levied. But if you are on the south side of Main Street and you are communicating by telephone or through the post office, that seller does not have that obligation to collect the tax.

This is fundamentally unfair. It is not only unfair to the retail seller on the north side of the street, it is also unfair in that it deprives the community of the resources which are necessary in order to pay for police, fire, health, and particularly educational services, the most expensive service that most communities provide to their citizens.

In his opening statement, the Senator from Oregon and my colleague and good friend, Senator WYDEN, indicated that the fundamental issue here is to treat commerce in a state of neutrality as it relates to technology. I think that very appropriately states the destination that we all want to get to, that we want to treat commerce with neutrality as it relates to the technology with which the commerce is conducted. Clearly, that is not the state of the law today.

Senator BUMPERS gives us an opportunity to achieve that neutrality by saying that all sellers will be responsible for the collection of State and local sales tax whether they are on the north or south side of Main Street.

In addition to being an issue of fairness, it is an issue of our Nation's future. If there is one thing that unites Americans in 1998, it is a recognition that our future as a nation, our future as a cultural leader, as a security leader, and as an economic leader depends, more than any single thing, on the ability of each individual American to be able to perform at their highest level of potential. And it is to our education system that we look to provide for most Americans that means by which they can achieve their full ability.

We have decided here in the Congress—and it is a position which I generally support also as a member of the Jefferson wing of the Democratic Party—that the best government is that government which is closest to the people who are served. We have, in a number of areas, devolved responsibilities to State and local governments. Those responsibilities also carry with them the obligation of State and local governments to provide the resources to finance those services.

We have also, Mr. President, thus far, refused to provide for additional partnerships where the Federal Government could enter into programs to assist State and local responsibilities. One of the most dramatic of those has been in the area of school construction. I must personally say, having stated my essential Jeffersonian position, that I believe it is appropriate for the Federal Government to assist local school districts and States in seeing that old schools are rehabilitated and new schools are constructed to meet an increase in student population. This is a particular issue in my State of Florida, Mr. President, as we are entering a state of maturity in Florida in which we have many schools that are now 40, 50, 60 years old, or more, and need substantial rehabilitation. We are also a State that, every year, is adding some 50,000 to 60,000 new students to our public schools, therefore requiring new schools to be constructed in order to provide the classrooms and laboratories for those additional students, without resorting to overcrowded classrooms.

I believe that the Federal Government has a role to play in this area, and it will be a role that could be played without undue interference with the responsibilities of State and local officials for the management of public education. I point out, however, that none of those efforts to provide for expanded Federal assistance has been accepted—other than some items through the Tax Code—and there has been a limited benefit to a certain number of school districts. But if we are not going to be providing an aggressive partnership to help States meet what today is over a $200 billion unmet need for school rehabilitation and new school construction, at least we ought to be assisting the States by allowing them to have their own taxes collected by remote sellers.

According to the New York Times editorial, which was previously referenced, the loophole that exists in today's law that holds that remote sellers are not responsible for collecting State and local sales taxes results in a revenue loss of $3.5 billion today. And that number will rise as more commerce is conducted from remote sales. That $3.5 billion, if the States collect it, could finance a significant beginning of States meeting their school construction needs.

So as I believe the first principle of the former profession of the occupant of the Chair is to ''do no harm,'' at least we ought to do no harm to the States by not precluding them from securing the revenue which they would have gotten had those sales been on the north side of Main Street because the decision was made to buy on the south side of Main Street from a remote seller.

So, Mr. President, this is not only an issue of fundamental fairness, it is an issue of States in this era of devolution of responsibility and Federal reticence to provide assistance to States carrying out their most important responsibilities, such as the education of their children. This will be a step toward our recognizing our responsibilities to our brethren at the State level to be able to fulfill these responsibilities.

Now, Mr. President, as I conclude, I do so with strong support for the amendment of the Senator from Arkansas. Having offered the same amendment in the Finance Committee and having seen it defeated, and knowing this is not the first time that it has been debated on the Senate floor with the result being defeat, I am not optimistic that the Senate today, regrettably, will adopt the amendment of the Senator from Arkansas.

We are going to have another debate on a collateral subject, Mr. President. I alert my colleagues to this. It is the debate on whether the commission, which will be established in Senator WYDEN's bill, should have the opportunity to consider the issue of the responsibility of remote sellers to collect State and local sales tax. At a minimum, if we are not going to adopt Senator BUMPERS' very wise proposal today, we certainly should allow the commission to consider this on another

day with even more analysis than we already have, and we will be in a position to do so.

Mr. President, as I conclude, I ask unanimous consent to have printed in the RECORD an editorial from the New York Times of October 2, 1998, entitled ''Fair Taxation in Cyberspace.''

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

[From the New York Times Oct. 2, 1998]

FAIR TAXATION IN CYBERSPACE

The rapid growth in sales of goods over the Internet raises hard questions about how states might fairly tax those transactions. The same problem has existed for years in mail-order sales. Consumers are technically liable for sales taxes on all purchases, including out-of-state catalogue purchases, but mail-order companies are required to collect sales taxes only in states where they maintain a physical presence. This loophole costs state and local governments about $3.5 billion a year.

The National Governors' Association and local government groups are rightly worried they will lose billions more a year from Internet sales that would otherwise be taxable in a traditional store. That loss—estimated to reach $10 billion a year in the next decade—will have a disproportionate impact on states that depend heavily on sales taxes, providing a tax break mostly for the affluent who have access to the Internet.

On-line service providers and electronic commerce lobbying groups, of course, want to make cyberspace tax-free, arguing that taxation would choke off Internet growth. Tax policy should not discriminate against electronic sales. But neither should the Internet be protected from taxes that apply in other realms of commerce.

Congress should keep the principle of parity in mind as it works through the proposed Internet Tax Freedom Act. The bill is intended to give state and Federal officials some breathing room to tackle these issues in a coordinated fashion. The House version, approved in June, would establish a three-year moratorium on any new Internet sales taxes and taxes on access to on-line services. It would also create a national advisory commission to examine ways to improve tax collection on all remote sales, including possible changes in Federal law to close the out-of-state-sales loophole.

The Senate, which debates the bill today, should resist extending the moratorium to five years, as some senators want. A long moratorium is unnecessary and would be hard to undo as consumers and businesses become accustomed to a tax-free cyberspace. In the meantime, the dozen states that have enacted Internet access taxes should be allowed to keep those taxes in place. Congress has no good reason to truncate state taxing authority, particularly since Internet commerce is thriving.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I yield myself 1 minute from the time remaining of the Senator from Arkansas, Mr. BUMPERS.

Mr. President, we have talked about catalog sales and the loss of funds. Yesterday, on the DOD authorization bill, we usurped States in their ability to tax, and now we are turning that around. Yesterday, we told the States that we are going to usurp a tax if we don't think it is fair locally or statewide. The residents of Tennessee who work in Kentucky at a Federal installation, who have been paying taxes—and the States have worked it out—were excluded yesterday. And then my residents in Kentucky are paying the Tennessee sales tax, and they were not exempt because Tennessee goes on a high sales tax and no income tax. So, yesterday we said to State and local governments that you can't tax.

There are 240 installations around the country. I think you will rue the day that you usurped the Buck Act and you said to the States that we are Big Brother and we will tell you how to tax. Now we have a catalog question before us that says we ought to get the tax. So we have to be very careful what we are doing. Yesterday was a bad day, not necessarily for Kentucky, but for others. Oregon had the same problem with Washington. They passed a law and worked it out and everything is fine. That is what we ought to do between States. This was not a Federal tax.

I yield the floor.

Mr. CHAFEE. Mr. President, like my friend from Arkansas, I am concerned about the effect that mail order sales companies have on local retailers. I have no axe to grind with these businesses, and in fact applaud their ability to provide a very important service to many Americans. The convenience of this type of purchasing is good for the consumer.

What does concern me is the possibility that mail order and other direct sales companies' popularity is on the rise simply because they are not required to collect state sales taxes. I do not know if that is the true reason for their growth, but I would be concerned if they are taking advantage of what may be, in effect, an uneven playing field. Remember, local merchants, who compete with direct sales companies for business, have no opportunity to avoid collecting sales tax on their transactions.

Mr. President, the amendment offered by the Senator from Arkansas raises a very important issue, and I am glad that the Senate has had the opportunity to debate it this morning. But this is a complicated issue, and cannot be fully considered over a few hours of debate on the floor of the Senate.

I have several questions about the proposal offered by the Senator from Arkansas. For example, is it reasonable to set the exemption level at $3 million of annual sales? Is the per state exemption level of $100,000 in annual sales an appropriate level? On whom should this obligation be imposed?

Mr. President, these are just some of the questions that the Advisory Commission should be given the opportunity to explore. It may be that when this issue is fully reviewed, the Congress will decide that the approach proposed by the Senator from Arkansas is the correct one. But I don't think we can make that judgment today, and that is why I am voting to table this amendment.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield 5 minutes of Senator SNOWE's time to the Senator from Pennsylvania, Senator SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

INTERNATIONAL RELIGIOUS FREEDOM ACT

Mr. SPECTER. I thank my colleague.

Mr. President, I have sought recognition to speak briefly in support of the International Religious Freedom Act, which was introduced today.

Mr. President, this follows some 2 years of effort. This legislation, first introduced by Congressman FRANK WOLF in the House and then introduced by myself in the U.S. Senate, seeks to put the imprimatur of the United States of America squarely in opposition to the religious persecution that is going on around the world. Again, the efforts have continued for 2 years.

Recently, because of certain objections to the tough sanctions imposed in the bill introduced by Congressman WOLF and myself, compromise legislation has been crafted with the leadership of Senator NICKLES, Senator LIEBERMAN, Senator COATS, with my participation, which strikes out at religious persecution around the world. Freedom of religion is a basic American value; perhaps along with freedom of speech, the basic American value; perhaps even more important than any other value expressed in our Bill of Rights, because freedom of religion is the first item mentioned in the Bill of Rights.

We have seen around the world egregious religious persecution with clerics being mistreated in China; with individuals being sold into slavery in Sudan. My own observations and investigation in Saudi Arabia, illustratively where Christians cannot have a Christmas tree in their window if it can be viewed by the outside; where Jewish men and women in the fighting forces in Tent City—where we have some 5,000 American personnel protecting the Saudis in the midst of a desolate desert—those Jewish military personnel are afraid to wear their dog tags, their identification being just too risky. In the Egyptian press Congressman WOLF and I have been vilified and chastised for our efforts to fight against religious persecution around the world.

You can judge people by their enemies as well as by their friends. It is a tribute of a sort—also a tribute of a source—to be so chastised for speaking out against religious persecution.

The bill, which was introduced today, Senate bill 1868, candidly, does not go as far as this Senator would have liked. My own view is that religious persecution ought to be met by very forceful sanctions. But the message was clear and unequivocal that the President's

administration would not sign legislation with tough sanctions.

It is regrettable that the almighty dollar continues to rule American foreign policy, and has limited the strike and has limited the resistance to religious persecution that we have articulated around the world. It would have been better for human rights to have tougher sanctions; it would have been a better statement of American values on human rights and freedom of religion and better to stamp out religious persecution to have been quite a lot tougher.

But the reality is that we are about to the end of the 105th Congress, a week from today. Congressman WOLF and I have pressed this stronger, tougher legislation for a lengthy period of time, and if no action is taken by the end of the congressional session, then I think that is a signal for open season for those who practice religious persecution to keep it up.

What has been crafted here is a compromise. We haven't compromised the principle, but we have adhered to the principle of compromise in crafting the legislation. It takes a very significant first step with the declaration by the U.S. Government that religious persecution is not to be tolerated. We will monitor the results, and, if necessary, we will be back with further legislation. I think this is a significant step forward.

I compliment Congressman WOLF for his diligence over a long period of time. I compliment Senator NICKLES and Senator LIEBERMAN for their craftsmanship of working out this compromise bill, along with our distinguished colleague, Senator COATS, who commented at a press briefing a few moments ago that as a final act on a very, very distinguished career in both the House and the Senate, this bill is something to be recommended.

I urge my colleagues to take a look at the bill, to join as cosponsors, but to certainly pass it before we end the 105th Congress so that it becomes the law of the land and it will strike a real blow for religious freedom around the world.

I thank the Chair, and I yield the floor.

INTERNET TAX FREEDOM ACT

The Senate continued with the consideration of the bill.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Thank you, Mr. President.

AMENDMENT NO. 3677

Mr. President, Senator MCCAIN and I have 5 minutes to briefly respond to Senator BUMPERS' proposal. I will use a couple of those minutes of time.

First, let me say that Senator BUMPERS is such an extraordinary person and such a wonderful orator that anyone who comes to the floor to speak after him is sort of in the position of being Tugboat Annie after the *Queen Mary* has sailed off.

I would like to try to briefly respond to Senator BUMPERS' proposal, and to urge my colleagues to strongly oppose it. First, let us be clear about what this legislation says with respect to those mayors and Governors about whom Senator BUMPERS is concerned.

This legislation says that if you are liable for a tax today, you are going to be liable if electronic commerce goes forward. You are going to be liable for a tax on an Internet sale just as if it was a traditional sale taking place today.

What the debate is all about is that some States believe that because they cannot collect on mail order today, they want to go out and collect taxes with respect to the Internet because they see the Internet as the cash cow.

Senator MCCAIN and I and others don't feel that the problem in our country is that mail-order sales aren't taxed enough. We think that what we ought to do as we look to the next century and the new economy—the digital economy—is to make sure that we have technological neutrality. This vote that we will be having in just a few moments on the Bumpers amendment is essentially the first substantive recorded vote that we will have had with respect to the Internet.

I urge my colleagues to oppose this. I will oppose it strongly, because I don't think the problem in our country is that mail-order sales aren't taxed enough. I think what we ought to do is go forward with this legislation as it stands now to ensure technological neutrality. I and others would be happy to work with Senator DORGAN and others to address this mail-order problem. But at the end of the day, let's not make the mistake with the Internet that was made with mail order years ago and create the same kind of fight and brawl.

Mr. President, I yield the floor.

Mr. MCCAIN. Mr. President, I will be very brief.

The proponents of this amendment say it is not a new tax but proper enforcement of an existing sales tax. This is not the case. With a few exceptions, States do not receive sales taxes from out-of-State mail-order businesses, nor can they expect one under current law since this is a tax that has never been collected in the past.

There is only one way to vote in favor of this amendment. Let's be clear. This amendment represents a very large tax increase on the public.

Mr. President, this amendment permits states to require out-of-state mail order businesses to collect their sales taxes on purchases made by their residents. The Senate Finance Committee, while reviewing the Internet Tax Freedom Act, determined by a bipartisan vote of 13–6 that the Internet Tax Freedom Act is not an appropriate vehicle for the Senate to act on this measure. I agree with the Finance Committee's assessment, and I know that were my colleague and chairman of the Finance Committee, Senator ROTH, present, he would object to the consideration of this measure by the Senate without a full review of this issue in committee hearings.

Make no mistake, this is not simply the collection of a standardized interstate sales tax, as troubling as that would be. There exist thousands of taxing jurisdictions at the state, county, and local level in the U.S. Combined with the different nuances of each of these jurisdictions, mail order businesses will face an administrative nightmare fulfilling their obligations under this amendment. In fact, it is the large number and complexity of different tax codes which now require the Senate to consider a moratorium on taxation of electronic commerce. Certainly we cannot now say that mail-order businesses can or should have to attempt to deal with the same difficulties electronic commerce faces when it comes to sales taxes.

Mr. President, in addition to representing an administrative burden to industry, this amendment would also place unacceptable burdens on consumers. Mail-order businesses contribute greatly to the quality of life for many Americans. The disabled, the elderly and others rely on mail-order businesses for a variety of products. Should out-of-state mail-order firms be required to collect sales taxes, it is entirely possible that consumers will find themselves having to calculate the proper sales tax to be remitted to the mail-order company. Given the complexity of taxes, it is more than likely that no small number of consumers will find the delivery of their purchases delayed due to insufficient sales tax payments. Not only will this amendment decrease mail order business' ability to cater to these Americans, but it will reduce the convenience of the mail order industry which is at the heart of its success.

Proponents of this amendment have cited fairness for small businesses as support for passing this amendment. The underlying philosophy is that small businesses cannot compete with tax-free products offered by out-of-state mail-order businesses. Mr. President, small businesses have more to fear from retailers in their own communities, such as K-Mart, Target, and Wal-Mart, than from mail-order businesses, yet small business continues to thrive. Most Americans are not spending their time shopping around for good deals on sales taxes, but they will go to a store two blocks away as opposed to a store a block away if they can get a better price on a product.

Mr. President, this amendment is not necessary for states to collect sales taxes on out-of-state mail order purchases as some suggest. Many states have adopted use taxes to make up for supposed losses in sales tax revenue on goods purchased out-of-state, which require residents to send in sales taxes on these purchases on their own. Proponents of this amendment say that

the public is not aware of these use taxes, and therefore does not pay them. In reality, use taxes have not been effective because many of those states with use taxes are not actively enforcing them. Is this reason enough to place the burden of tax collection for Arkansas on Arizona businesses? Will Arizona businesses be able to take advantage of the sidewalks, roads, or public safety services in Arkansas? If taxing authorities are dissatisfied with their receipts from use taxes, they should work to devise alternative methods for informing the public about their existence.

Mr. President, the Congress has worked hard to balance the federal budget, and we now have a budget surplus. As a result, Congress is working on a tax cut package the American people have every right to expect. This is not the time to consider new taxes on an American public already being nickel and dimed. Proponents of this amendment say it is not a new tax, but merely the proper enforcement of existing sales taxes. This is not the case. With a few exceptions, states do not receive sales taxes from out-of-state mail-order businesses, nor can they expect to under current law. Since this is a tax that has never been collected in the past, there is only one way to view a vote in favor of this amendment. Let us be clear, this amendment represents a huge tax increase on the public.

I urge my colleagues to oppose this new tax.

Mr. President, I ask unanimous consent to have printed in the RECORD a Wall Street Journal article of December 23, 1992.

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

[From the Wall Street Journal, Dec. 23, 1992]

MAIL-ORDER TAXES, GHOST OF CHRISTMAS FUTURE

(By Arthur P. Hall II)

If many states have their way, consumers could lose lots of shopping flexibility at Christmastime—and all year long. In their increasingly desperate attempts to collect money without upsetting voters, certain states want Congress to help them cash in on their residents' out-of-state mail-order and direct-marketing purchases. But the results would be disastrous—disappointing state treasuries, depriving consumers and ruining many people who depend on mail-order firms for their livelihood.

The entire direct-marketing industry exceeds $200 billion annually, and includes charities and political fund-raising groups. States continue to explore the taxation of consumer services and advertising, but the tax assault is aimed primarily at mail-order catalogs, a strong and growing sector of the U.S. economy.

A study released in October by the Pennsylvania-based WEFA Group (formerly the Wharton economic consulting group) found that the catalog industry, with sales of $48.8 billion, contributed $39.9 billion (0.6%) to 1991's gross domestic product. (According to Virginia Daly of Daly Direct Marketing in Bethesda, Md., mail-order gifts account for 20% of all Christmas shopping.) In 1991, the catalog industry employed more than 250,000 people and generated a total employment of 1.17 million. The WEFA Group projects that these figures will grow substantially between 1991 and 1996, with total employment growing 16.6%

HOW TO STIFLE GROWTH

But taxes could stifle this growth if states persuade Congress to pass legislation enabling them to make out-of-state firms collect what is called a ''use'' tax. It is like a sales tax, but it applies to transactions in which a buyer and seller reside in different states. The U.S. Supreme Court, in a 1967 decision, frustrated state tax collectors by ruling that, without congressional approval, they could not require out-of-state firms to collect the use tax when the firm's only presence (''nexus'') in a state was the shipment of catalogs by common carrier or U.S. mail. In sum, the court required a physical presence within the taxing state.

Ever since, tax collectors have tried to find a way around the ruling. These efforts increased in intensity about 1986, and included laws passed by 36 states to broaden the nexus interpretation from a physical to an economic presence. The Supreme Court rejected these efforts and upheld the 1967 precedent in its May 1992 decision on *Quill Corp.* v. *North Dakota*. But the court also said that ''Congress is now free to decide whether, when, and to what extent the States may burden interstate mail-order concerns with a duty to collect use taxes.''

Since 1986, most states—with Bill Clinton's Arkansas being among the first—have enacted use-tax statutes, enforcing them with varying degrees of intensity while awaiting clear direction from Congress. Rep. Jack Brooks (D., Texas) offered such legislation in May 1989. The Brooks bill never passed, but the 1983 political landscape offers promise for revenue-hungry states.

The problem with use taxes is that they are a compliance nightmare for everyone—direct marketers, consumers and states. That's why states want Congress to simplify their task by allowing them to force mail-order firms to collect the taxes. But politicians have a bad habit of ignoring the economic, consumer-choice and administrative costs associated with revenue-raising measures.

According to a 1986 study by Touche Ross, the accounting firm (now Deloitte Torche), forcing mail-order firms to collect state use taxes will raise their operating costs by 10% to 20%. And the costs get more onerous for smaller firms. That's why the Brooks bill exempted firms with annual revenues under $12.5 million. But this threshold still leaves midsize firms ($13 million to $50 million) with huge and potentially crippling costs); it also erects a serious obstacle to growth. Firms surpassing the $12.5 million threshold would have to buy the equipment and hire the staff to comply with 46 different state tax laws, and absorb or pass on the cost of collecting use taxes by mail. These costs would be six times greater than collecting sales taxes at the point of retail sale.

The fact that more than 50% of mail-order customers still pay by check means that catalog sellers would have to include consumers in the use-tax compliance process. Having to dedicate a page or more of a catalog to reciting state tax laws would of course be costly. But the problem doesn't stop there. Picture a dear grandmother who gleefully picks out Christmas sweaters for her grandchildren, scattered across several states, and then has to spend the afternoon calculating her tax bill. Ho-ho-ho.

Consumer choice and jobs, however, would suffer the most from a federal use-tax law. Midsize mail-order firms increasingly give greater choice and flexibility to rural and elderly consumers. And these firms often establish themselves in market niches, offering unique products that most local markets couldn't support.

Moreover, mail-order firms tend to proliferate in rural areas, providing a core economic base. For example, Lands' End employs 3,700 people in Dodgeville, Wis., more than the population of the entire town. L.I. Bean, in Freeport, Maine, employs around 4,000 At both firms, the numbers swell by 25% in the months leading up to Christmas, Orvis Co. (Roanoke, Va.) employs 400, the Collin Street Bakery (Corsicana, Texas) employs 700, and George W. Park Seed Co. (Greenwood, S.C.) employs 600. If federal use-tax legislation passes, says Leonard Park of George W. Park Seed, ''our company is going to get creamed, and a lot of traditional American families will suffer.''

A PITIFUL SUM

This suffering will occur for the purpose of ''enhancing'' state revenues—but only by a pittance. (With administrative costs included, some states would even lose money.) Total state revenues for 1991 equaled $661.4 billion and revenue from general sales taxes equaled $103.2 billion. The Advisory Commission on Intergovernmental Relations—a study group that monitors taxation on federal, state and local levels—estimated potential 1991 use-tax revenue at only $2.08 billion. And even this estimate is too generous.

One should more rigorously adjust the potential tax base for lost jobs, lost mail-order sales, use-tax exemptions, firms that already pay sales taxes because of physical presence in a state, lost revenue from firms that service the catalog industry, services, and state administrative costs. When these adjustments are made, one discovers only about $500 million in potential revenue, about 0.5% of general sales tax revenues. Even Scrooge wouldn't try to collect that pitiful sum.

Taxing the thriving mail-order industry is a thoroughly bad idea. Let's hope its time has not come.

Ms. SNOWE. Mr. President, I rise in opposition to the amendment offered by my distinguished colleague from Arkansas, Senator BUMPERS, because I believe it is unnecessary and could prove detrimental to mail order companies.

For these reasons, I urge that my colleagues reject this amendment, just as they rejected it at the start of the 104th Congress by an overwhelming bipartisan vote of 73 to 25.

Mr. President, I do not believe that the bill currently before us—the Internet Tax Freedom Bill—is the appropriate place for the Senate to consider the imposition of new taxes. This amendment contains major compliance and tax issues that should be properly considered and reported from the Finance Committee before being brought to a vote on the floor.

In addition, my strong opposition to this amendment stems from my belief that this measure will be detrimental to the mail-order industry nationally, as well as posing a stark threat to a company whose quality craftsmanship, durable outdoor products, and legendary commitment to excellence has made it the pride of my home state of Maine—L.L. Bean of Freeport.

L.L. Bean was established 86 years ago as a small, Maine-based store catering to the surrounding community and a limited number of mail-order customers. In 1912, who would have

guessed that someday L.L. Bean would rise to become one of the premier international manufacturers and marketers of outdoor gear and other goods? But by focusing on unquestioning customer satisfaction and unparalleled quality products, L.L. Bean succeeded in bringing to our state and the local community many jobs and much pride.

In Freeport alone, 4,000 people are employed by L.L. Bean full-time while over 11,000 are employed part-time during the Christmas holidays, making it the third largest employer in the State of Maine. At the same time, L.L. Bean's retail store brings to Freeport and its surrounding communities 4 million customers every year, and attracts an additional 4 million catalog customers annually—a powerful generator of tourism and business for the entire state.

Mr. President, the amendment offered by my colleague, Senator BUMPERS, would threaten the present and future job prospects of Freeport's residents needlessly, as well as any other community that employs individuals in the mail-order industry.

And even as this amendment would prove harmful in Maine and across the nation, the irony is that this amendment is not even necessary to accomplish the goal being sought by my friend from Arkansas.

Specifically, states already have the ability to collect sales taxes, just as Maine has demonstrated, and can easily collect these taxes through the voluntary income tax.

In Maine, taxpayers are given the option on their personal income tax form of either stating the actual amount of sales tax due for out-of-state purchases in a given year, or entering a flat tax amount based on a percentage of the taxpayer's income.

The bottom line is that states have the ability to collect these taxes—they do not need Federal legislation to do so.

Mr. President, the State of Maine has proven that the legislation being proposed by the Senator from Arkansas is not necessary. I urge my colleagues join me in opposing this proposal, just as they opposed it four years ago. Thank you, Mr. President. I yield the floor.

Mr. MCCAIN. Mr. President, on January 19, 1995, this amendment was voted down by a vote of 73 to 25. I anticipate the same vote.

Mr. BUMPERS. Will the Senator yield the floor?

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

Mr. BUMPERS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Arizona has 1 minute left; 2½ minutes remain for the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have lost this amendment several times.

As you have heard me say previously, this is the seventh or eighth year that I have offered this proposal. Every year the specious, absolutely false arguments are made that people don't want any more taxes and that this is a new tax. This is nothing more than a continuation of the unfunded mandates bill we passed here in 1995.

All my amendment does is say to the States, as the Supreme Court in 1992 said, if Congress gives the States authority to tax sales by mail-order catalog houses, the States may take the opportunity to make them pay it.

You are talking about the Chamber of Commerce types who go to work at 8 o'clock in Little Rock, AR, in Allentown, PA, and Nashville, TN, and work all day long and collect sales taxes on every dime of every merchant on all the merchandise they sell; and some guy has a big warehouse across the State line and can ship that same merchandise into Tennessee, Arkansas and Pennsylvania without even collecting a sales tax. The Governors and the mayors and the municipalities, the council of shopping centers, the council of State governments, why do you think they are for this? Because we are saying, if you want to. If you don't want to, fine, don't do it. But we are saying you now have the right that the Supreme Court gave you to require these people who fill your landfills with catalogs to make them collect a tax just like Main Street merchants do.

Why do you think they are for it? Because they see their tax base disappearing with Internet sales and mail-order sales.

I ask every Member of this body before you cast your vote, ask yourself this question: What is going to happen to this country when the schools start closing because the tax base is gone? One of the biggest problems mayors have right now is with their police forces, their fire departments. Community schools are strapped. And all we are saying is if you want to collect a sales tax on out-of-State sales, you can. But this bill doesn't mandate it, doesn't require it. It simply gives you the right, and that is the reason all these organizations are for it. That is the reason the New York Times is for it.

I yield the floor.

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

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I ask unanimous consent to speak for 1 minute.

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

Mr. DORGAN. I thank the Chair.

Mr. President, let me just add to the comments of the Senator from Arkansas. This is a toothless argument that doesn't even wear well with age—that this is a new tax. I have heard that for 8 years. There is simply no demonstration of truth to that argument. It is demonstrably untrue. This is not a new tax. The tax already exists on that form of commerce. It is not now being paid. The Senator from Arkansas does not propose to change the fundamental question of whether that transaction is taxed or not taxed.

So when I hear comments from friends of mine saying that this is a new tax, I say they are wrong, dead wrong and the facts demonstrate that. So I hope Senators will support the Senator from Arkansas. I think he has offered a good amendment.

Mr. MCCAIN. Mr. President, I move to table the Bumpers amendment and ask for the yeas and nays.

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 agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Missouri, (Mr. BOND) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. Hollings), the Senator from Nebraska (Mr. KERREY), the Senator from Illinois (Ms. MOSELEY-BRAUN), are necessarily absent.

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

The result was announced—yeas 66, nays 29, as follows:

[Rollcall Vote No. 296 Leg.]

YEAS—66

Abraham	Feinstein	Mack
Allard	Frist	McCain
Ashcroft	Gramm	McConnell
Baucus	Grams	Murkowski
Biden	Grassley	Murray
Boxer	Gregg	Nickles
Brownback	Hagel	Reid
Burns	Hatch	Robb
Campbell	Helms	Roth
Chafee	Hutchinson	Santorum
Coats	Hutchison	Sessions
Collins	Inhofe	Shelby
Coverdell	Jeffords	Smith (NH)
Craig	Kempthorne	Smith (OR)
D'Amato	Kerry	Snowe
Daschle	Kohl	Stevens
DeWine	Kyl	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Durbin	Lieberman	Torricelli
Faircloth	Lott	Warner
Feingold	Lugar	Wyden

NAYS—29

Akaka	Dorgan	Levin
Bennett	Enzi	Mikulski
Bingaman	Ford	Moynihan
Breaux	Gorton	Reed
Bryan	Graham	Roberts
Bumpers	Harkin	Rockefeller
Byrd	Inouye	Sarbanes
Cleland	Johnson	Specter
Cochran	Kennedy	Wellstone
Conrad	Landrieu	

NOT VOTING—5

Bond	Hollings	Moseley-Braun
Glenn	Kerrey	

The motion to lay on the table the amendment (No. 3677) was agreed to.

CHANGE OF VOTE

Mr. HELMS. Mr. President, on roll-call vote No. 296, I was recorded as having voted ''nay.'' It was my intention to vote ''aye.'' I ask unanimous consent that I be recorded as a ''aye.'' This would not affect the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, thank you very much.

Mr. President, let me take just a few minutes to talk about where we are with respect to the Internet tax bill and also to express my thanks to—who may have left the floor—but to express my thanks to Senator BUMPERS.

Senator BUMPERS could have filibustered this legislation. He could have insisted on his rights as a Senator to speak at length on this past amendment that he feels very strongly about, as do a number of Senators, and I want to thank him for not doing that. He has been exceptionally kind to me. He knows that I feel strongly about this legislation. And he has been very constructive in working with the bipartisan group pursuing the legislation.

Let me also just state, as I did, it is our intent—it is clearly spelled out in the legislation—that if a firm or a home-based business—I have thousands of them in Oregon; I know our colleagues do as well—if they are liable for a tax today, they are going to be liable under this legislation if that sale is conducted on the Internet. It is just that simple.

So what it comes down to, is if you have a question from a mayor or a Governor who asks you about this subject at home—any Senator who is asked about this issue should simply say that this legislation does no harm to the States or to the localities, and it simply treats Internet commerce like any other kind of commerce. That was something that I, as the bill's sponsor, felt very strongly about.

With respect to the legislation, I know other Senators wish to speak as well, and Senator DORGAN wants to address the Internet issue this afternoon as well. I am very hopeful we will be able to resolve the one remaining issue, and that is the question of the commission and what they are going to be looking at.

The Senator from North Dakota, Senator DORGAN, has been very helpful on this matter in an effort to try to get an agreement—Senator GRAHAM has as well. I am very hopeful that we will be able to, now that we have addressed the major amendment, the Bumpers amendment, I hope that we will be able to get an agreement on exactly the duties of the commission and be able to go forward with the managers' amendment.

Senator MCCAIN and myself and others have been anxious to try to address concerns that Senators have had with respect to the length of the moratorium, other issues surrounding the managers' amendment. I think we can do that.

So, again, let me say that I very much appreciate, especially on a Friday with Senators having a busy schedule, the opportunity to discuss this issue. We made considerable progress. I especially thank Senator BUMPERS who could have spoken at length, filibustered this legislation, and he has been especially kind to me. I express my appreciation to him.

I see the Senator from North Dakota who has worked many, many hours in an effort to try to get this issue to the floor, along with me and others, and I express my appreciation to him and say that I especially appreciate his effort to bring the parties together with respect to the commission and the issues that they will be pursuing there in an effort to make sure that as we look to the digital economy in the 21st century that we have a chance to examine those questions.

Does the Senator from North Dakota wish to pursue a question at this time?

Mr. DORGAN. Mr. President, it is my intention—I did not provide an opening statement as we brought the bill to the floor. Senator MCCAIN, who is managing the legislation, and I and Senator WYDEN and Senator BUMPERS and others talked about the schedule. I wanted the vote to be able to occur in a way that would allow Members to cast their vote and catch their airplanes, so I deferred on an opening statement. It is my intention to provide an opening statement to discuss the framework of, I think, some of the amendments that we will be debating as we continue this legislation this afternoon and also perhaps next week.

Let me, if I can, describe the circumstances that brought this legislation to the floor.

Mr. President, we are not under a time limit at this moment, are we?

The PRESIDING OFFICER. Has the Senator from Oregon yielded the floor? He still has control.

Mr. WYDEN. I thought the Senator from North Dakota had a question he wanted to postulate. I do want to address the concern that he has on the Internet tax bill. He has been very fair in working with the sponsors on this matter.

Mr. DORGAN. If I might, I would like to provide my opening statement. If the Senator would yield the floor so I might provide the opening statement on this side. There are a number of things I would like to discuss with the Senator from Oregon, but I think it would be appropriate for me to give the statement that I deferred previously.

Mr. WYDEN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Would that be possible—I would like to accommodate the Senator from North Dakota—if I were to yield the floor at this point, given the fact that he had asked earlier for time to give his opening statement, that he be recognized if I yielded the floor?

The PRESIDING OFFICER. The Senator from North Dakota is the minority manager of this legislation and does have priority.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, as I indicated, along with Senator MCCAIN, when we brought the legislation to the floor today, I was interested in trying to accommodate the schedules that Members had. And the second vote this morning was able to be held at a time that would allow some Members the opportunity to catch airplanes back to their home States. But I did want to discuss the circumstances that allowed us to get this legislation to the floor. And I would like to review with the Senator from Oregon some of the provisions of the bill that are yet to be completed.

First, with respect to this general subject of the Internet, my orientation of this issue is that, like most Americans, I view the Internet as something new and exciting and wonderful in a lot of ways and troublesome in other ways. The technology without question is remarkable and wonderful.

Obviously, there are some things on the Internet these days that are troublesome and that is why we struggle with this question of the Decency Act that we wrote in the Commerce Committee and was struck down by the Supreme Court. I think the Senator from Indiana, Senator COATS, is going to offer an amendment similar to something we have discussed previously with respect to the Internet and decency.

But leaving that aside, the Internet itself and the telecommunications revolution that exists in this country, and the information superhighway that comes from that revolution, is really quite remarkable.

I come from a town of 300 people. I have a very different background than the Senator from Wyoming or the Senator from Arizona for that matter. I come from a town of 300 people. I went to a very small school. Obviously, a school in a town of 300 people is not going to be big under any circumstance. But my high school graduating class was nine students. And we had a library in my high school that was a very small coat closet, and that contained all of our books. And that was it. That is the way life was in my school. Would I trade it for another experience? No. I thought it was a wonderful school, a wonderful hometown, and a wonderful education.

But now when I go back to my hometown it is slightly smaller than it was

when I left. Some of those rural communities are shrinking. I go back to that wonderful community and go to the school. The library is not much larger than it was then except—that school is now connected to the information superhighway. Computers in those small schools can now access the information superhighway.

And what does that mean? It means in my hometown of Regent, ND, there is a student today who is able to use a computer and access the Library of Congress. Now, the Library of Congress has the largest repository of human knowledge that exists anywhere on Earth. Of all of the accumulated knowledge in human history—the largest body of that knowledge exists in the Library of Congress. In Regent, ND, that small library is now augmented by the largest library on Earth as a result of the information superhighway and the new revolution in telecommunications.

Is that wonderful? It is more than wonderful. It changes our ability to educate. It changes our ability to do a whole series of things. In fact, as an aside, I read a while ago that the CEO of IBM Corporation gave a speech to shareholders. He said they are on the cusp of discovery in researching storage density sufficient so that he expects we will soon be able to put all of that information from the Library of Congress—14 to 16 million volumes of work, the largest repository of human knowledge on Earth—on a wafer the size of a penny. Think of that, a computer storage wafer the size of a penny encompassing all of the works of the Library of Congress.

What does that mean? It is a wonderful opportunity in our future to use the Internet and to use telecommunications to enhance education and a whole range of things.

I wanted to provide that framework simply to say, especially coming from a very small community in North Dakota, we understand the wonders and the technological marvels that exist in what we are talking about here and how it changes things.

My hometown, 120 miles southwest of Bismarck, ND, 50 miles from Dickinson, and, for those who want to pinpoint it more precisely, 14 miles west of Mott, ND—my hometown is as close to the Hudson River as downtown Manhattan with telecommunications. Just like that, you can transmit data off the Internet. We have erased geography as a disadvantage.

Now, in addition to the advantages of education that I have described with respect to the Internet and the information superhighway, there is another entire area of commerce that also provides significant advantages to people in my hometown and people in every hometown in our country.

When I was a young boy, from my hometown we had to drive nearly 60 miles to go to a hospital. We had to drive 60 miles to a sporting goods store. When I was a young boy, that is what I wanted to do when my parents took me to the big town, Dickinson, ND, 10,000 people. I wanted to go to a sporting goods store. It was a small store with baseball mitts and merchandise. In my hometown, we had none. So I would go there and get lost in the sporting goods store, picking up the new baseball gloves, feeling and nurturing them, and wondering, what if I owned one of them? That was a big deal to me.

It was true with respect to a Dairy Queen—50, 60 miles to a Dairy Queen; 60 miles to a clothing store. That is the way it was.

Now, however, in my hometown you can't order a Dairy Queen over the Internet, but that sporting goods store is brought to my hometown by the Internet. The Internet changes commerce. Now someone in my hometown can dial up on the Internet a sporting goods store, a clothing store. Want to buy some new athletic shoes? That is available. How about a book? Amazon.com—we all know the success story of that company.

My point is, we are seeing dramatic new areas of commerce available to people around the country, and around the world for that matter, which will improve their lives. I agree with that.

We had a disagreement, the Senator from Oregon and I, about the piece of legislation in the Commerce Committee. I felt very strongly that what was proposed was dead wrong and he felt strongly it was right on target. We didn't disagree because we differed about the policy of what the Internet could mean to our country and to our people. I fully understand the full flow of benefits that will come from this. I understand and recognize that. Members know my interest is not in any way, ever, to impede the growth of the Internet or the growth of opportunity that people want to take advantage of on the Internet to market their goods, to build their business, and to do those kinds of things.

At the same time, however, I recognize that while the Internet might bring a sporting goods store to my hometown, it will also bring some merchandise to my hometown that those few merchants in my hometown sell and must now collect a sales tax on when they sell it. I want to make sure, relative to the previous amendment and also some other amendments we will discuss, that what we do with respect to this form of new commerce has some relationship to fairness, fairness tied to selling on Main Street, sales from mail-order catalogs, selling on the Internet. I want to make sure what we are doing here is fair to all areas of commerce.

That is why when Senator WYDEN—who has been a leader on this, no question about that; he was the author in the Senate Commerce Committee of the underlying legislation—brought this legislation to the committee, I felt very strongly that the way it was constructed was going to cause a lot of problems. I opposed it vigorously, as he well knows.

Since that time when it was passed out of the Commerce Committee, it has changed substantially. We now, I think, agree on one central principle, and that principle embodied in the underlying legislation is that we ought to have a moratorium of sorts so that we don't have State or local governments creating regimes of taxation here that could be punitive or could retard opportunities on the Internet in a punitive or discriminatory way. We agree with that and we have constructed legislation which I think will accomplish that and doesn't disadvantage any State or any local government. If there is a State or local government that has plans today to say let me be punitive in the way I apply a tax or construct a tax dealing with the Internet, I say I am not in your corner. I am not on your side on that. You are wrong; you ought not do that.

I didn't want to snare in the net the kinds of State and local taxes that are applied to virtually all other kinds of commerce and do it in a way that would say to those who are at home on Main Street that you will be at a disadvantage because we have created a special safe harbor or special tax haven for certain kinds of electronic commerce. That has always been my concern.

As long as the Senator from Oregon is here, I will engage him in this conversation. I think we are coming to the same point, Senator MCCAIN, Senator WYDEN, myself, and others, with respect to what we want to accomplish with this legislation. It is a system which, as we see the Internet begin to grow in its infancy—and it still is in its infancy—is nondiscriminating with respect to how taxes are imposed among different forms of commerce.

I yield for a comment from the Senator from Oregon about whether he sees us coming to that same point and whether he shares that goal.

Mr. WYDEN. I thank the Senator from North Dakota for his thoughtful comments, as well. I think there has been a considerable effort in the last few months to address this in a bipartisan way.

I think the Senator from North Dakota is exactly right; what we want is technological neutrality. We don't want the Internet to get a preference. We don't want the Internet to be discriminated against. We want to be able to say, as we look to the brand new economy, the digital economy, that we don't make some of the mistakes that we made as we tried to sort out some of the issues, for example, with respect to mail order. I think the Senator from North Dakota has been very persistent in terms of trying to work with all the parties in making sure that the commission studies these issues fairly. That is certainly what I want.

I was very interested in my friend's comments with respect to his town in North Dakota and how the Internet

would allow, for example, somebody to log on in North Dakota and get goods from a sporting goods store far away and have them shipped to a small town in North Dakota. That is clearly one of the benefits. But what we also hope to do with the Internet Tax Freedom Act is make it possible to grow small businesses in North Dakota that will be able to furnish some of those goods and services.

My friend from North Dakota has many small communities in North Dakota, as I do in Oregon. I want to make sure that Burns and Wagontire and other small towns in Oregon can compete. My view is that sensible Internet policies will make those small businesses more competitive than they are today.

The reason that Main Street businesses support the Internet Tax Freedom Act, the bill that is before the Senate today, is that Main Street businesses, those small stores, recognize right now they are having a lot of difficulty competing with the Wal-Mart giants and certainly major corporations that are located overseas.

And once you make geography irrelevant, which the Internet does, once you get a fair tax policy for a home-based business in Oregon or North Dakota, rather than those businesses facing discriminatory taxes, as we have been addressing today, I think we will grow more small businesses in North Dakota and Oregon on Main Street, and that is the hope of the sponsors of this legislation.

So let me yield back to the Senator from North Dakota, as this Senator has to head off for a 7 or 8-hour flight home. I want to again express my thanks to the Senator from North Dakota. He and his staff have spent many, many hours toiling over what is arcane language, at best, with respect to the digital economy and these new issues. I think the Senator from North Dakota is right in saying that this is just the beginning of this whole discussion. We had another initiative yesterday that was very sensible—Senator BRYAN's initiative dealing with on-line privacy as it relates to children. So we are just at the beginning of these issues.

I hope to be sitting next to the Senator from North Dakota on the Communications Subcommittee as we tackle these questions. I think we have made considerable progress. I specifically thank Senator GRAHAM, Senator BUMPERS, as well as the Senator from North Dakota. They have had strong views on this matter, and they know this bill has been important to me. They have all been very gracious in helping to move it along. Also, Senator MCCAIN will be back on the floor in a few moments. We simply could not have been here without the support of Senator MCCAIN and his staff. I am looking forward to seeing this legislation go to the President before we wrap up. I thank the Senator from North Dakota.

Mr. DORGAN. Mr. President, one of the issues that we have not completely resolved is extending the moratorium. We have a moratorium in this legislation that says to the States that if you have not yet adopted or enforced an Internet tax, there is a moratorium; you will not be able to do that during this time out. During that period, a commission will meet and evaluate all of these issues. The Senate finance bill reported out a 2-year moratorium on bit taxes, discriminatory taxes, and on Internet taxes. The House-passed version of this legislation has a 3-year moratorium. My understanding is that there will be an amendment calling for a 5-year moratorium on the bill that is coming to the floor. The version passed out by the Senate Commerce Committee had a 6-year moratorium.

Keynes used to say, ''In the long run, we are all dead.'' I don't know what the long run is, but when you talk about moratoriums here, 6 years is a large expanse of time. It seems to me that it is wholly inappropriate. I would more favor the Senate finance bill, which is a 2-year time out, or moratorium. We will likely have to agree to something more than that, but 5 or 6 years, in my judgment, is not reasonable. I think there is another amendment that was noticed, or at least will be offered, with a 3-year moratorium, which seems to me to be a more reasonable compromise. I ask the Senator from Oregon about that.

Mr. WYDEN. I thank the Senator. He has correctly laid out the various time periods. Let me say again, the Senator from North Dakota knows both the chairman of the Commerce Committee and I are still wanting to work with those who feel that 5 years is too long a period. We are anxious to try to get an agreement and, hopefully, this can all be resolved as part of a managers' amendment.

I think the concern of certainly myself and others is that 2 years is too short because it is going to take some time to work through a subject as complicated as this, and then there is going to need to be a period where the States have the chance to address it. I think we can come up with a period that is acceptable. Of course, the moratorium, such as it is, applies only to Internet access taxes. It does not apply to other spheres of economic activity. And with respect to other spheres of economic activity, again, Internet will be treated just like anything else. If a State and a locality has other means of raising revenue, we want to make it clear that, with respect to the Internet, the business conducted there will be treated like everything else.

So let me yield back to the Senator from North Dakota at this time, with an assurance that we are going to continue to try to negotiate on this point an acceptable time period for all parties. We have discussed 4 years, and we have discussed a variety of options. We are going to continue to do that. I want it understood that both Senator MCCAIN and I feel that the Senator from North Dakota is trying very hard to be helpful here, and we are going to continue to move forward in working with him to get this resolved.

Mr. DORGAN. Mr. President, I say to the Senator that the way to be most helpful would be to agree with me.

Mr. WYDEN. I will say, having made 30 changes since we left the Commerce Committee, that this Senator, who is a good friend of the Senator from North Dakota, has a very high batting average—since we have been talking about baseball—in terms of agreeing with the Senator from North Dakota. We are going to continue to work with him, as he knows.

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

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

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. Senate bill 442, the Internet access bill.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order.

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

Mr. BYRD. Is there any time limit, Mr. President?

The PRESIDING OFFICER (Mr. THOMAS). Not that I know of.

Mr. BYRD. I thank the Chair.

TAX CUTS

Mr. BYRD. Mr. President, as all Senators are aware, at midnight on Wednesday, September 30, Fiscal Year 1998 expired. And with the expiration of the fiscal year came some most welcome and almost unbelievable news that, for the first time since 1969, the unified Federal budget was in surplus for Fiscal Year 1998. We do not know the exact figures yet. That will not be known until the Treasury Department completes its calculations of actual revenues and expenditures that occurred up through midnight, September 30, but we do know that the latest estimate by the Congressional Budget Office of that unified budget surplus is $63 billion. The President has announced that the official administration projection of the Fiscal Year 1998 unified budget surplus is about $70 billion. This unified budget surplus, whether it be $63 billion, or $70 billion, or some other figure, is a result of a dramatic turnaround from the massive budget deficits that were projected just a few short years ago.

Who should be given the lion's share of the credit for this dramatic turnaround in the country's fiscal fortunes? The President wants to claim a large share of the credit. The Republican-led Congress likes to say that things did not really change until they took over

control of the House and Senate, and that they deserve the majority of the credit. Many financial analysts give a substantial amount of the credit to the policies of the Federal Reserve, which have attempted to manage the country's fiscal fortunes through adjustments in interest rates.

Suffice it to say, credit should be given to all of the above. Speaking from first-hand experience, I believe that Congress does deserve substantial credit for the turnaround from the triple-digit-hundred-billion-dollar deficits of the twelve years under Presidents Reagan and Bush. Those triple-digit deficits accumulated to the point where the nation's debt rose from just under $1 trillion on the day that President Reagan took office to more than $4,097,000,000,000 on the day that President Bush left office. In other words, in the entire history of the country, from the day that President George Washington took office to the day that President Reagan took office, the nation's accumulated debt amounted to less than $1 trillion. Twelve years later—the day that President Bush left office, it stood at $4,097,000,000,000.

Throughout the period of the 1980s, Congress attempted to rein in these massive Federal deficits, for example, with the Gramm-Rudman-Hollings sequester mechanism that was part of the 1985 Balanced Budget and Emergency Deficit Control Act. This mechanism, Senators may recall, required an across-the-board sequester of all Federal programs (with few exceptions) sufficient to bring down any deficits that exceeded those provided for in annual budget resolutions. In 1990, it became clear that the sequester that would be necessary to achieve the requirements of Gramm-Rudman-Hollings would have decimated the entire Federal establishment, including a cut in the budget of the Department of Defense ranging between 25 and 35 percent. Rather than allowing those sequesters to proceed, Congress and the Bush Administration had no choice but to convene what turned out to be a very lengthy and difficult budget summit. I participated in that summit, as did a number of my Senate colleagues who are still in the Senate—Senators DOMENICI and GRAMM, for example. After many months, including weekends and around-the-clock sessions at Andrews Air Force Base, that summit resulted in substantial changes in our budget discipline which have played a positive role in helping to rein in Federal deficits since their inception in 1990.

Under those mechanisms, sequesters of not only discretionary funds take place when so-called discretionary caps are exceeded, but also, for the first time, mandatory programs are under a pay-go system as well. Under the Budget Enforcement Act of 1990, any new mandatory spending must be fully offset. That 1990 Act also put in place a process for considering emergency spending, which is allowed to go forward outside the budgetary caps, if such spending is declared an emergency by both Congress and the President.

By and large, that emergency mechanism, I believe, has been beneficial and has been used in accordance with the intentions of the summiteers. That emergency designation is allowed for spending outside the caps for events that are sudden, urgent, unforeseen, and not permanent. Such events include natural disasters, military deployments around the world, and so forth.

The fact that the 1990 Budget Enforcement Act has been successful is not just the opinion of this Senator. It is shared by many, including the Chairman of the Federal Reserve Board, Alan Greenspan, who in recent testimony before the Senate Budget Committee, made the following statement in relation to that legislation, and I quote:

> I think that—frankly, much to my surprise, as I think I have indicated to you over the years, that the budgetary processes, which were put into place by the Congress a number of years ago, have worked far better than I would have ever anticipated them working. And I would be quite chagrined if we abandoned them because when you have a good thing, it seems rather pointless to dismantle it.

I think those words by Mr. Greenspan are right on the mark.

Subsequent to the 1990 changes in the Budget Act and the Gramm-Rudman-Hollings law, I believe that credit should also be given to those who voted for the 1993 budget package which passed each House of Congress by a one-vote margin and without a single vote from the Republican side of either body. That package was anathema to the Republicans. Yet, despite the dire predictions of economic doom which came from the Republican side of the aisle at the time, the economy has performed very, very well ever since the enactment of that legislation. All of those who have been involved in reducing Federal deficits can be justifiably proud of what is now a unified budget surplus for Fiscal Year 1998 in excess of $60 billion.

But, while we are basking in the glow of high praise and compliments all around, we must also take a heavy dose of realism. For reasons that I shall now attempt to explain in some detail, this is not the time to abandon the fiscal discipline we have undertaken for a number of years. I believe very strongly that any budget surpluses in the coming decade should be used for retiring the Federal debt, rather than for massive tax cuts or increases in Federal spending.

Mr. President, on July 15, 1998, the Congressional Budget Office issued its summer baseline projections for Fiscal Years 1998–2008 for the unified Federal budget. Now, let me stop here and explain what the term ''unified Federal budget'' means. The unified Federal budget includes not only the operating budget of the various departments and agencies throughout the Federal government, but it also includes the Postal Service and—get this—Trust Fund surpluses, the most important one of which is—guess what—the Social Security Trust Fund. By including these Trust Fund surpluses in the unified budget, one ignores the fact that none of the Trust Fund surpluses is available for anything other than the purposes for which the Trust Funds were established. In other words, it is to a large extent misleading and certainly amounts to budgetary wizardry to count these Trust Fund surpluses when one says that there is an overall unified Federal budget surplus. Nevertheless, for the moment, let us talk about what has happened to the projections of our Congressional Budget Office experts as far as they relate to the unified Federal budget between the period March 15, 1998, and July 15, 1998.

The unified budget surplus projections for the 11-year period 1998–2008 provided to Congress in March of this year by the Congressional Budget Office totaled $679 billion.

Let me say that again.

The unified budget surplus projections for the 11-year period 1998–2008 provided to Congress in March of this year by the Congressional Budget Office totaled $679 billion.

By July 15, 1998, just 4 months after its March 1998 projections, the Congressional Budget Office sent to Congress its summer report, which I have. In that report, CBO projects that unified budget surpluses for the period 1998–2008 will total more than $1.6 trillion. That is a change of some $932 billion in surplus projections for the next 11 years. So over a period of just 120 days, from March 15, 1998, to July 15, 1998, the Congressional Budget Office changed its projections of unified budget surpluses for the next 11 years from $679 billion to $1.611 trillion.

What caused the Congressional Budget Office, our premier independent budgetary experts, to make such a massive change in budget surplus projections in such a short time? The best that we have been able to determine is that the largest the contributor to the upward revision of future surpluses resulted in a change in CBO's treatment of revenues. Previously, CBO had argued that there had been a surge of unexpected revenues in the recent past, but that such surge was temporary. Now they argue that there are good reasons to think that this unexpected surge in revenues will continue indefinitely. This results in an ad hoc addition of approximately $50 billion each year of the latest 11-year budget forecast.

Does this mean, Mr. President, that the Congressional Budget Office is inept and that perhaps the Congress should seek the services of another budget prognosticator? Certainly not. Rather, my purpose in highlighting this significant change in estimates is to support my belief that, in all decisions affecting revenue and spending

for future years, we must tread carefully on the planks of budgetary estimation. Like an old man crossing a footbridge strung over a chasm, only a small misstep can mean the difference between a successful crossing and spectacular failure.

CBO would be the first to tell you that they have consistently missed budgetary forecasts, as has the Office of Management and Budget. That is to be expected. No human being can ever predict accurately what revenues will come into the Treasury in a given year, or what expenditures will go out of the Treasury, or what the unemployment rate will be, or what the inflation rate will be, or whether there will be a recession, or the duration and virility of recessions. In short, Mr. President, there is no reason to believe that the CBO's current forecast of the budgetary picture over the upcoming 10 years will be any more accurate than have been its previous forecasts. Also, very importantly, Senators should remember that budgetary estimates can rapidly change and they can change for the worst, just as they have turned for the better in recent years. We saw this firsthand during the early 1990s when we suffered a severe and lengthy recession; there is no reason to think that it cannot happen again. There is no reason to think that it will not happen again. Consider the remarks of the Chairman of the Federal Reserve Board of Governors, again, Mr. Alan Greenspan, at a recent hearing by the Senate Budget Committee. This is what he said:

> According to CBO's figures, a recession comparable to the 1991 downturn would eliminate the unified surplus and create a budget deficit of more than $50 billion within 2 years. Over the next 10 years, more than half of the $1.5 trillion in projected unified surpluses would be eliminated.

That was Mr. Greenspan talking.

With this in mind, we should never underestimate just how unpredictable and capricious budget projections can be.

In virtually every CBO report, cautionary statements are made, such as the following, which is included in the CBO's most recent budget update:

> . . . there is a risk that future events will cause a significant divergence from the path laid out in the new forecast. The economy could be more adversely affected by the Asian crisis than CBO assumes; the tightness of the labor market could cause a significant jump in the rate of inflation; or the stock market could drop precipitously.

We have seen that happen all too many times of late.

> Conversely, the Asian crisis could have little additional effect on the United States; productivity growth might remain higher than CBO anticipates, which would permit a continuation of rapid noninflationary growth and stronger profits; or labor force participation rates might again increase rapidly, easing pressures on the labor market for a few years. Such alternative outcomes could have a substantial effect on the budget, increasing or decreasing its bottom line by $100 billion or more in a single year.

That is the end of the quotation.

To this point, Mr. President, I have concentrated my remarks on the ''unified Federal budget'', which, as I stated earlier, combines not only the operating budget of all Federal departments and agencies, but also the Postal Service and Trust Fund surpluses. In so doing, the unified Federal budget hides from view the question of whether, in its operations, the Federal budget is in deficit or is in surplus.

Let us now look at a couple of other Federal budget calculations that are available to us through the Congressional Budget Office. What, for example, are CBO's baseline projections for the next 5 years for on-budget deficits or surpluses? On-budget calculations, it should be noted, exclude Social Security surpluses and the Postal Service, which, I might add, are supposed to be treated as off-budget by law. CBO's on-budget calculations project that we will suffer deficits for Fiscal Years 1999, 2000, 2001, and 2003. In other words, if one leaves Social Security surpluses and the Postal Service out of the budget calculations, there is no surplus at all until the year 2002, at which time CBO says there will be a $1 billion on-budget surplus.

Let me read that again. CBO's on-budget calculations project that we will suffer deficits for Fiscal Years 1999, 2000, 2001, and 2003. In other words, if one leaves Social Security surpluses—we are talking about Social Security surpluses. We are talking about something that interests a lot of people, something that involves millions of people in this country, something that is of concern to the great mass of people out there, old and young, women, men, children—if one leaves Social Security surpluses and the Postal Service out of the budget calculations, there is no surplus at all until the year 2002, at which time CBO says there will be a $1 billion on-budget surplus. Deficits for the other fiscal years total $138 billion. Therefore, over the coming 5 budget years, CBO projects that, if we exclude Social Security surpluses and the Postal Service—if we exclude them—we will suffer deficits in 4 of those years totaling $138 billion and a surplus of only $1 billion in one year—2002—making a net on-budget deficit over the next 5 years of $137 billion.

Hence, it becomes obvious that for the next 5 years, there is no Federal budget surplus at all if one excludes Social Security and the Postal Service from the calculation. In fact, there is a net deficit of over $130 billion.

Now, let us take a look at CBO's calculations of what is called, in budgetary terminology, the ''Federal Funds Budget.'' This budget, by definition, excludes not only Social Security and the Postal Service but all Trust Funds. In other words, the Federal funds budget excludes Social Security, the Postal Service, the Highway Trust Funds, the Airport and Airway Trust Funds, the Medicare Trust Funds, the Civil Service and Military Retirement Trust Funds, the Unemployment Trust Funds, and many, many more. CBO's projections are that we will have Federal funds deficits for 9 of the next 10 years. For that period, Fiscal Years 1999–2008, Federal funds deficits are projected to total $592.2 billion. Over that period, only the year 2008 is projected to show a small surplus.

What this means is that when all obligations of the Federal Government are taken into account, including the IOUs to all Federal Trust Funds, we will not have any surplus until the year 2008—even if these new, rosy CBO forecasts come true, and even if Congress restrains itself from spending any of those projected surpluses or cutting taxes.

Now, let us shift our attention to a discussion of the National Debt. Federal Debt is divided into two categories—namely, Debt Held by the Public and Debt Held by Government Trust Funds. Under present policies, CBO's latest projections show that Debt Held by the Public will decrease from $3.7 trillion in 1998 to $2.3 trillion in 2008.

This is so because Debt Held by the Public does not include any of the debt owed by the Treasury to Federal Trust Funds. Therefore, if CBO's $1.6 trillion in projected unified budget surpluses come to pass, those surpluses will go toward reducing Debt Held by the Public. However, Debt Held in Government Trust Funds will rise, according to CBO, from $1.8 trillion in 1998 to $3.9 trillion in 2008. In other words, the surpluses in the Government Trust Funds that I have previously named will continue to grow and add to the debt owed by the U.S. Treasury to those Trust Funds. When one combines both types of Federal debt, namely, Debt Held by the Public and Debt Held in Government Trust Funds, one arrives at what is known as Gross Federal Debt. This, to me, represents the truest picture of the debts being incurred by the Federal Government that will eventually have to be paid. CBO projects that Gross Federal Debt will rise from $5.475 trillion in 1998 to $6.222 trillion in the year 2008. In other words, even if all of the projected surpluses of CBO come true over the next 11 years, and even if all of the $1.6 trillion in projected budget surpluses come true, we will still face a massive mountain of Gross Federal Debt which will have grown from $5.5 trillion to $6.2 trillion over this same period.

Mr. President, I have attempted in these remarks to paint a realistic picture of the condition of the Federal budget, including a true picture of whether we are incurring deficits or surpluses and whether we are increasing or decreasing overall Federal debt in the coming 10 years. It should be perfectly clear to any rational person that there is no real surplus and that, even if CBO's latest 10-year forecast proves to be accurate and if Congress restrains itself from cutting taxes—there is a great hue and cry, a great

push for cutting taxes—even if Congress restrains itself from cutting taxes or increasing spending, Gross Federal Debt will continue to rise by some $700 billion, even under CBO's rosy scenarios. Furthermore, this could all change massively, as I have pointed out, with one recession like the one suffered by the Nation in the early 1990s.

It is against this backdrop that the House recently passed what they call the ''Taxpayer Relief Act of 1998.'' According to the Joint Committee on Taxation, this House-passed tax cut would reduce Federal revenues by $80 billion over the next 5 years and by $176 billion over the next 10 years. Keep in mind that tax cuts, once enacted, are permanent and the loss in revenues to the U.S. Treasury continue not just for 5, 10, or 15 years, but forever, unless they are repealed.

So, if the Congress lost its collective mind, and if the President joined Congress in losing our collective mind and signed such a reduction in revenues, those permanent tax cuts would come to pass regardless of whether CBO's latest projections of unified budget surpluses come true or not. Furthermore, we should keep in mind that over the next 5 years, there is no budget surplus at all—none—if one excludes the Social Security Trust Fund surpluses from the calculations. In effect then, the House-passed tax bill uses Social Security to pay for its $80 billion, 5-year cost to the Treasury.

We should also keep in mind that the Gross Federal Debt is going to continue to rise even without any tax cut. It follows that such a tax cut would increase the Federal debt by $80 billion over the next 5 years; by $176 billion over the next 10 years; and by ever-increasing amounts each year thereafter.

It should be noted, Mr. President, that the House-passed tax cut bill is in direct violation of the 1990 Budget Enforcement Act. That Act, as I stated earlier in my remarks, requires that any increase in mandatory spending or any tax cuts must be fully offset under what is called the ''Pay-As-You-Go'' rules. Those rules, which have been wisely extended through the year 2006 by the Budget Enforcement Act of 1997, allow for a point of order against any such un-offset tax cut. This means that the House-passed tax bill when, and if it comes before the Senate, will be subject to a 60-vote point of order.

I hope that Senators will come to their senses on both sides of the aisle and do what they know is right for the American people and vote against any tax bill that reduces Federal revenues, keeping in mind that even if all of the projected surpluses of CBO come true over the next 11 years, and even if all of those surpluses are applied to the Federal debt, we will still have massive Gross Federal Debt, which will grow from $5.5 trillion to $6.2 trillion over this same period. To fritter away billions of dollars at this time on massive tax cuts would be the height of irresponsibility and would signal to all the world that we cannot be relied upon to rid this great Nation of not only its deficits, but also its gigantic national debt as well. And that should be our solemn goal. It is ironic that after struggling mightily to overcome the 12 years of recordbreaking, triple-digit-billion-dollar Federal budget deficits under Reagan and Bush, the Republicans are now calling for cutting Federal revenues by huge amounts based on what could turn out to be flimsy projections by the Congressional Budget Office, which, even if they come true, will have done little more than put a small dent—just a small dent—in overall Federal debt.

Mr. President, you do not need any poll to do the right thing here. I say to Senators, this is a no brainer.

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

The PRESIDING OFFICER (Mr. COATS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

INTERNET TAX FREEDOM ACT

The Senate continued with consideration of the bill.

AMENDMENTS NOS. 3678 AND 3679, EN BLOC

Mr. MCCAIN. Mr. President, I send two amendments en bloc to the desk on behalf of Senator BRYAN and Senator ABRAHAM and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes amendments numbered 3678 and 3679, en bloc.

The amendments (Nos. 3678 and 3679), en bloc, are as follows:

AMENDMENT NO. 3678

At the end of the bill add the following new title:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 34 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with

the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(e) FORM, QUESTIONNAIRE, OR SURVEY.—The term ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

AMENDMENT NO. 3679

(Purpose: To add the provisions of S. 2326, as ordered reported by the Committee on Commerce, Science, and Transportation and as further modified, as a separate title to the bill)

(The text of amendment No. 3679 is printed in today's RECORD under ''Amendments Submitted.'')

Mr. MCCAIN. Mr. President, these two amendments are not relevant, but they are acceptable to both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 3678 and 3679) were agreed to.

Mr. MCCAIN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3678

Mr. ABRAHAM. Mr. President, I want to take a moment to discuss language that has been added to this legislation, the ''Government Paperwork Elimination Act.'' In May, I introduced S. 2107 to enhance electronic commerce and promote the reliability and integrity of commercial transactions through the establishment of authentication standards for electronic communications. S. 2107 was reported by the Committee on Commerce, Science, and Transportation last month.

After the bill was reported, it was discovered that the bill was erroneously referred to the Commerce Committee and should have been referred to the Committee on Governmental Affairs. S. 2107 deals with Federal government information issues and, according to the parliamentarian, falls directly within the jurisdiction of Governmental Affairs. I understand a similar bill had been approved by Governmental Affairs last Congress.

Obviously, this was discovered late in the session. Nevertheless, Senator THOMPSON, the chairman of the Governmental Affairs Committee, worked with me to develop language which combines language from the bill reported by his Committee last Congress and S. 2107. I want to thank my colleague from Tennessee for his help and insight. He spent a great deal of time assisting me with this legislation and, in my opinion, his language makes many improvements to the original bill.

Mr. THOMPSON. Mr. President, I thank my colleague from Michigan for his hard work on and dedication to information technology issues. The Committee on Governmental Affairs which I chair has had a long and involved history with this issue.

This language which we are discussing today seeks to take advantage of the advances in modern technology to lessen the paperwork burdens on those who deal with the Federal government. This is accomplished by requiring the Office of Management and Budget, through its existing responsibilities under the ''Paperwork Reduction Act'' and the ''Clinger-Cohen Act,'' to develop policies to promote the use of alternative information technologies, including the use of electronic maintenance, submission, or disclosure of information to substitute for paper, and the use and acceptance of electronic signatures.

The Federal government is lagging behind the rest of the nation in using new technologies. Individuals who deal with the Federal government should be able to reduce the cumulative burden of meeting the Federal government's information demands through the use of information technology. This language hopefully will provide the motivation that the Federal government needs to make this possible for our nation's citizens.

I thank Senator ABRAHAM for offering us the opportunity to work with him on this important issue.

MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, as I understand, we are in morning business for up to 10 minutes. I ask unanimous consent to be able to proceed for 15 minutes.

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

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, we are reaching the final days of this Congress, and the leadership is deciding about which measures the Senate is going to consider during these final few days.

As I mentioned previously, we have identified a number of different pieces of legislation that I don't believe, and I don't think the American people believe rise up in importance as to protecting the families of this country with the kinds of protections that we would have with our Patients' Bill of Rights. But, we have been unable to have this legislation up before the Senate, to have it debated and discussed, and to have a resolution by this body in a timely way.

As I have mentioned on other occasions, it is Friday afternoon at 2 o'clock and most Americans are still working. The Senate should be, on an issue of this importance, still here and debating these issues and resolving these matters in ways which I think, with a full debate and an open discussion, resolve these matters in favor of the families, in favor of the patients, in favor of this country.

It is a very basic and fundamental issue—whether we are going to have the medical professionals—the doctors and nurses—make the ultimate judgment in terms of health care, or whether those decisions are going to be made by the HMOs, the insurance companies, and their accountants.

For all Americans who are participating in these HMOs, they have paid the premiums and they expect their medical treatment will be decided by medical professionals, and not accountants in the insurance industry.

I doubt very much whether these HMOs—when they are out recruiting new members to join and pay their premiums from their hard-earned money which they work for every single day—are saying, ''Well, we want you to know that the people who are going to be making decisions about your health care are going to be the accountants, and not the doctors we are referencing in our pamphlets.''

Mr. President, this morning in the Wall Street Journal on the front page there was a rather ominous report. This is from this morning, Friday, October 2nd, on the front page of the Wall Street Journal: ''Politicians seek to profit from the debate over health-care policies.''

This is the debate—the one issue—that is before the U.S. Senate, the Patients' Bill of Rights. There are other health care issues. But this is the health care issue that commands the wide-range support of over 180 different organizations reflecting all of the various medical professionals—all the

nurses, all the cancer patient organizations, all of the children's organizations, all of the disability organizations, and all of the women organizations. They have all virtually embraced and endorsed this health care debate that we have been trying to have. The debate has been rather one-sided since we have not been able to have engagement from the other side on this issue.

We have the Wall Street Journal saying the following. This is an exact quote:

> The GOP's congressional campaign committee invites a ''select group'' of health-care-industry leaders to a meeting Tuesday on the issue. The ticket price: $25,000 each.''

$25,000 each.

> The meeting ''will last one hour'' only, says an invitation signed by Illinois Representative HASTERT and California Representative THOMAS. That would exceed $400 a minute per person for the fundraiser.

These are the two leading Republican House Members that have been opposed to the Patients' Bill of Rights. Evidently, Mr. President, we have been unable to get this measure before the Senate of the United States—we find that because of the fact that the legislation has been shelved, pigeonholed, the result is that our Republican friends are having a ''select group'' of health care industry leaders who will pay $25,000 to go to a meeting.

Mr. President, let us look at the most recent report of last month, a new study by Common Cause, which I saw this morning. I asked my staff to get the most recent study by Common Cause about contributions to the Republican National Committee by this industry. They reported that the industry which gave the most soft money to the Republicans of any group was the insurance industry.

It is very interesting that here we have the industry paying $25,000 each for each of their personnel to go to a fundraiser with people who have been effectively there to sidetrack this legislation. Then, when we look back, we find out the insurance industry has opened up its coffers to the party that is keeping us from debating this and resolving this in the U.S. Senate.

That is what is happening. The American people do not understand that. If they don't understand very much, they understand this: That Common Cause reported that in the first 6 months of this year they gave $5.5 million. This is where they have contributed.

I daresay we will find out as we move on through, month by month, and then at the end of the year the reports will come in after the election about what they have done in terms of the various candidates.

This is what we are faced with on the one hand. This is what we are faced with: Big money and powerful special interests denying the opportunity for the interests of these various organizations and the people they represent—not just Members of the U.S. Senate who favor this position but those who are really the constituencies of these organizations. We are talking about the Children's Legal Defense Fund that has represented the interests of the children. We are talking about the range of different groups that have been representing the disabled. We are talking about the medical societies representing the doctors and nurses societies—denying those particular interests the opportunity for debate on this legislation.

Mr. President, earlier today we heard some very moving testimony. It has been typical of the testimony that we have been hearing over the period of recent weeks and months.

This is by Mr. A.G. Newmyer of The Epilepsy Foundation.

I will include the statements in their entirety. Mr. President, I ask unanimous consent that they be printed in the RECORD.

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

STATEMENT BY A.G. NEWMYER III, THE EPILEPSY FOUNDATION, OCTOBER 2, 1998

Good morning. My name is Newmyer and I'm here on behalf of the 2.5 million Americans who have seizure disorders, and their families. Some of these folks are well known to you—former Congressman Tony Coelho, Representative Neil Abercrombie, Congressman Hoyer's late wife. Others are total strangers—like me. And a couple hundred people on the Hill either have epilepsy or someone in their family does, but you don't know about it because stigma and fear keep these folks in the closet.

The Epilepsy Foundation urges passage of strong patients' rights legislation. Today's health insurance system is a mean-spirited, predatory mess. But it's far worse for people with special medical needs.

Those of you who cover this debate may recall that Tracy Buccholz from MN was the first public witness before the President's commission on health care. Tracy has epilepsy and led a rather normal life until her health plan started playing games with her life. She explained to the commission, when she came to Washington to testify, that she had been waiting eight months for permission to see her neurologist, despite the literature and promises of her plan.

I'd like to make three brief points this morning:

First, the member satisfaction statistics are pure nonsense. If I asked each of you how you like your life insurance, you'd think I was nuts. You'd tell me that you think it's fine—you never had to use it. The same thing's true for the 80 percent of Americans who have no significant medical need in any one year. I urge the press to focus on satisfaction among plan participants who have faced a serious medical need.

Second, to those members who say they don't want to interfere in the insurance market, let's be serious. The user isn't the customer. Most patients get insurance at work and have very little choice. When the person making the purchase decision isn't the user of the service, it's not a market. It's an anomaly. And it needs to be fixed. Now.

Finally, I know of no other segment of our society where some people elect to engage in predatory behavior knowing that the victims can't go to court. No patients want more lawsuits. Patients want health plans to stop horsing around. Patients want to fix a system where some people prosper by denying care. The key is ERISA reform, which is why it's being fought so hard by for-profit managed care plans.

I leave you with this thought. Steve Wiggins, CEO of Oxford, made $29 million before he was fired. Last year, with his company ½ way down the toilet, he left with $9 million in severance. The CEO of Aetna-United took home $17,693,000 during the past three years.

Do you really think those plans can't afford for people with seizures to have easy access to decent care?

DON'T LET THE CLOCK RUN OUT ON PATIENT PROTECTIONS

(Statement By Debra L. Ness, Executive Vice President National Partnership for Women & Families)

Good morning. My name is Debra Ness, and I am executive vice president of the National Partnership for Women & Families. I'm here today on behalf of the leadership organizations working for passage of the Patients' Bill of Rights Act, S. 1890. More than 180 groups—representing patients, doctors, nurses, other health care professionals, women, children, people with disabilities, small businesses and people of faith—support this Patients' Bill of Rights, and I am here to say to Congress: don't let the clock run out on patient protections! Americans deserve better from their elected officials!

Today, we are sending a letter to Senate Majority Leader Trent Lott, demanding that the Senate fulfill its responsibility to represent the people's interest. We need a full and fair debate on the Patients' Bill of Rights Act before the end of this session. Every day Congress delays, patients suffer:

Imagine your father being sick, and watching helplessly as his insurance company overrules his doctor about what treatment is best for him.

And yet . . . Congress delays.

Imagine your wife being told she can't participate in a clinical trial that might be the only opportunity to save her life.

And yet . . . Congress delays.

Imagine your child becoming permanently disabled because your insurance company wouldn't let you go to the nearest emergency room.

And yet . . . Congress delays.

Imagine the chronic disease you have managed for years suddenly going awry because your cost-conscious health plan refused to let you continue using the medication that helped stabilize your condition.

And yet . . . Congress delays.

We've talked with women around the country who told us with great passion how they believe the health care industry has abandoned patients for profits. Single women, mothers, grandmothers; corporate executives and Medicaid recipients; Democrats and Republicans, African-Americans, whites, Asians, Hispanics. The consistency of their concerns was extraordinary. And it is clear that women do not trust the industry to fix itself. They desperately want health plans to provide quality care, and they are convinced that government must play a role in setting quality standards.

And yet . . . Congress delays.

Just one bill responds to these legitimate and deep-felt concerns, and that is S. 1890, the Patients' Bill of Rights Act. It is the only bill that gives patients real protections, not phony substitutes. Unfortunately, the House has already passed a sham proposal that would actually reverse what little progress has been made so far. But the Senate has an opportunity—and an obligation to Americans—to enact meaningful patient protections by passing S. 1890, the Patients' Bill of Rights Act.

The Senate has three choices:

(1) It can do nothing and ignore the will of the people;

(2) It can deliver a bill that pretends to solve managed care's problems; or

(3) It can deliver the real Patients' Bill of Rights.

There is only one right choice, and there's absolutely no excuse for the U.S. Senate to get it wrong.

Mr. KENNEDY. Let me highlight what we heard this morning.

Good morning. My name is Newmyer and I'm here on behalf of the 2.5 million Americans who have seizure disorders, and their families. Some of these folks are well known to you—former Congressman Tony Coelho, Representative Neil Abercrombie, Congressman Hoyer's late wife. Others are total strangers—like me. And a couple hundred people on the Hill either have epilepsy or someone in their family does, but you don't know about it because stigma and fear keep these folks in the closet.

The Epilepsy Foundation urges passage of strong patients' rights legislation. Today's health insurance system is a mean-spirited, predatory mess. But it's far worse for people with special medical needs.

Those of you who cover this debate may recall that Tracy Buccholz from MN was the first public witness before the President's commission on health care. Tracy has epilepsy and led a rather normal life until her health plan started playing games with her life. She explained to the commission, when she came to Washington to testify, that she had been waiting eight months for permission to see her neurologist, because the literature and promises of her plan.

I'd like to make three brief points this morning.

First, the member satisfaction statistics are pure nonsense. If I asked each of you how you like your life insurance, you'd think I was nuts. You'd tell me that you think it's fine—you never had to use it. The same thing's true for the 80% of Americans who have no significant medical need in any one year. I urge the press to focus on satisfaction among plan participants who have faced a serious medical need.

That is important, Mr. President.

Second, to those members who say they don't want to interfere in the insurance market, let's be serious. The user isn't the customer. Most patients get insurance at work and have very little choice. When the person making the purchase decision isn't the user of the service, it's not a market. It's an anomaly. And it needs to be fixed. Now.

That is a very important point, Mr. President.

Finally, I know of no other segment of our society where some people elect to engage in predatory behavior knowing that the victims can't go to court. No patients want more lawsuits. Patients want health plans to stop horsing around. Patients want to fix a system where some people prosper by denying care. The key is ERISA reform, which is why it's being fought so hard by for-profit managed care plans.

Do you really think these plans can't afford for people with seizures to have easy access to decent care?

That is very moving, Mr. President, and clearly all of the organizations want us to debate and resolve these issues, because every single day they know that the lives of their members, like other Americans' lives, are being threatened by the abuses in the HMO system.

Finally, Mr. President, there is Debra Ness, executive vice president of the National Partnership for Women & Families.

We need a full and fair debate on the Patients' Bill of Rights Act before the end of this session. Every day Congress delays, patients suffer:

Imagine your father being sick, and watching helplessly as his insurance company overrules his doctor about what treatment is best for him.

And yet . . . Congress delays.

Imagine your wife being told she can't participate in a clinical trial that might be the only opportunity to save her life.

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Imagine your child becoming permanently disabled because your insurance company wouldn't let you go to the nearest emergency room.

And yet . . . Congress delays.

Imagine the chronic disease you have managed for years suddenly going awry because your cost-conscious health plan refused to let you continue using the medication that helped stabilize your condition. [This happens, Mr. President. This happens.]

And yet . . . Congress delays.

We've talked with women around the country who told us with great passion how they believe the health care industry has abandoned patients for profits. They desperately want health plans to provide quality care, and they are convinced that government must play a role in setting quality standards.

And yet . . . Congress delays.

Just one bill responds to these legitimate and deep-felt concerns, and that is S. 1890, the Patients' Bill of Rights Act. It is the only bill that gives patients real protections, not phony substitutes. The Senate has an opportunity—and an obligation to Americans—to enact meaningful patient protections by passing S. 1890, the Patients' Bill of Rights Act.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter signed by a number of organizations saying:

We, the leadership organizations working for passage of the Patients' Bill of Rights. . .ask [the majority leader] to schedule a full and fair debate before the close of the 105th Congressional session.

Mr. President, I ask the letter be printed in its entirety.

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

SUPPORT THE PATIENTS' BILL OF RIGHTS,
October 2, 1998.

Hon. TRENT LOTT,
U.S. Senate, Washington, DC

DEAR SENATOR LOTT: As you know, there are only a few weeks left to pass meaningful patient protection legislation. We, the leadership organizations working for passage of the Patients' Bill of Rights (S. 1890) ask that you schedule a full and fair debate before the close of the 105th Congressional session. There are now more than 180 organizations supporting S. 1890.

Support for patient protection legislation has grown in the last year. In fact, after being presented with arguments pro and con, 65 percent of Americans believe the government needs to pass legislation to protect them from managed care industry abuses, according to a recent survey conducted by Harvard and the Kaiser Family Foundation. People across the country are calling for debate and passage of real patient protections.

We urge that the Senate fulfill its responsibility to represent the people's interests. While Congress delays, people are being denied access to the specialists they need, denied coverage for clinical trials that may save their lives, and harmed by bureaucrats making medical decisions based on cost concerns rather than patient care needs.

There is an urgent need for this legislation, and because of this urgency we request a meeting with you so that we can personally convey the critical importance of this issue to the people across America that we represent.

Thank you for your time and consideration of this matter. We look forward to hearing from you soon. Please contact Judith L. Lichtman, President, National Partnership for Women & Families, with your reply.

Sincerely,

Sandy Bernard, President, American Association of University Women; Peggy Taylor, Director, Department of Legislation, American Federation of Labor-Congress of Industrial Organizations; Charles M. Loveless, Director of Legislation, American Federation of State, County and Municipal Employees; Nancy W. Dickey, MD, President, American Medical Association; Dale Eazell, PhD, Chair, Board of Directors, American Medical Rehabilitation Providers Association; Beverly L. Malone, PhD, RN, FAAN, President, American Nurses Association; Ron Pollack, Executive Director, Families USA Foundation; A. Cornelius Baker, Executive Director, National Association of People with AID; Judith L. Lichtman, President, National Partnership for Women & Family.

Mr. KENNEDY. There are now more than 180 organizations that are supporting it. The time is running short, but, as we have seen in the paper, there is a great deal of work yet to be done. We have not lost faith that still, somehow, the central concerns of families across this country can be listened to and responded to with a positive answer that, still, we might be able to, even in these last days of this session, have action to protect our families in this country.

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

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

PRIVILEGE OF THE FLOOR

Mr. WARNER. Mr. President, I ask CDR Richard Voter be granted floor privileges for the purpose of my delivery to the Senate, which will be perhaps 10 to 12 minutes.

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

The Senator is notified that we are in morning business with a 10-minute limitation. Does he wish to ask for more?

Mr. WARNER. Mr. President, I ask for up to 15 minutes.

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

KOSOVO

Mr. WARNER. Mr. President, there is increasing concern within the United States, and quite properly, for the fate of the people of Kosovo. I wish to address my concerns, in what I deliver to the Senate this afternoon, in what are entirely my remarks. I take full responsibility for the views and opinions that I express. I have, however, availed myself of every opportunity to learn firsthand about the critical nature of this problem, including a visit several weeks ago to this region which included a trip to Bosnia, thence to Belgrade, thence to Macedonia, and then into Kosovo. I commend the Ambassadors from the United States to Macedonia and—he has the rank of DCM—to Serbia for their very diligent and hard work in representing the interests of our Government and, indeed, those of our principal allies. That is Ambassador Hill and Ambassador Miles. I spent a considerable time with both.

Likewise, I was given the opportunity in Kosovo to visit with a group known as KDOM, which is an unusual group constituted following negotiations between our Ambassadors and, as I understand, their counterparts in Belgrade whereby this group of U.S. military and diplomatic, Russian military and diplomatic, Canadian military and diplomatic and, indeed, some of the EU nations, are given the opportunity to travel without weapons into certain regions of Kosovo for the purpose of observing—and I repeat—observing the tragic unfolding of atrocities throughout that country. I joined them in their armored cars for the purpose of this visit and then had the opportunity to be debriefed extensively by these individuals.

They are doing a remarkable job taking personal risks and providing the free world with an inside examination of this serious and critical problem. I wish to pay them tribute. I also was able, when I returned, to visit with the NATO commander, General Clark, to get them some additional equipment to carry out their missions.

I have also, like most Senators, availed myself, since 1992, of the opportunities to visit in Bosnia and to study the complex issues that brought about that tragic period of hostilities, which hostilities now have been brought to some measure of conclusion, largely because of the allied forces that are in there providing the security so that the Dayton accords can be implemented.

In this entire region, referred to as the Balkans, you cannot touch one spot without affecting, in my judgment, the others.

Now NATO, the United Nations, the United States—all of us —are faced with the following situation: Repeatedly in Kosovo atrocities are taking place against innocent human beings, largely innocent. We have no way of judging their culpability in the separatist movement initiated sometime ago by the forces known as the KLA, but while I was there, I saw the houses being burned, I saw armed people, I saw the hopeless refugees numbering in the hundreds of thousands who had been driven into the hills and wanted to do the right thing, to alleviate the human suffering. That is the main threshold.

Also, our Nation and our allies have put a very considerable investment, first, of the risks taken by our military and diplomatic people and the NGOs—those of nongovernmental organizations who have brought relief to this region—we have put an enormous investment of time and effort to bring about a cessation of those hostilities. In my judgment, unless this situation in Kosovo is likewise secured, it could undermine such advances, although modest, in my judgment, that we have made collectively as nations in this region. First is humanitarian concern for the people; second is to prevent instability as a consequence of this conflict, erasing some of the gains that we have had there.

Lastly, our Nation is proud of the fact that we are the leader, in my judgment, in NATO. Only NATO is the only military force that can and, indeed, should be employed if it is necessary to bring about the cessation of hostilities in Kosovo.

The administration has made efforts, I think many bona fide efforts, through the diplomatic chain—speaking directly with Milosevic in Belgrade. We have been joined by other nations, referred to as the ''contact group.'' I think every effort has been made diplomatically in the past that could have been made, and now that effort is strengthened by a degree day by day of the assertion by the United Nations with regard to their growing concern about the humanitarian problems taking place in Kosovo.

But in no way should the military option, which has to back up diplomacy—diplomacy can be no more effective than the credibility of the willingness of certain nations to back up that diplomatic effort—in no way should the United Nations, in my judgment, have any veto over the decision of the collection of nations—the United States being one, Great Britain, France, Germany and others—to take such action as they deem necessary to bring about a cessation of the tragic situation in Kosovo.

I want to repeat that. Never should the United Nations be put in the position, nor NATO allow itself to be put in a position, where the United Nations has a veto power over the decision-making of NATO. But I think the annunciations by the Security Council recently give adequate cover for those nations who wish to collectively act, if necessary, to back up their diplomacy with military action.

That military action, in my judgment, has very severe consequences. I want to make it clear, speaking for myself, that I support the use of force if diplomacy fails, and that is a tough position to take, because I have had grave reservations through these many years about our continued participation and expenditure and deployment of troops in Bosnia, but in the final resolution of the Dayton accords, I felt that I would lend my support, and did, for the putting in of the SFOR and IFOR forces. They have, as I say, to some modest degree, achieved the milestones set out in the Dayton accords. But, in my judgment, of course, we took a step backward, regrettably, as a consequence of the recent elections. Nevertheless, always focus on the considerable investment we have put in that region and how that investment can be jeopardized unless the Kosovo situation is stopped in terms of the atrocities.

How do we do it? My concern is the discussion in the open thus far—and I have availed myself of classified sources and I will only address the open discussion—is that the use of air power will bring about a situation whereby Milosevic in Belgrade will cease the directions and cease sending the Serb Army and the police associated with the Serb Army to stop perpetrating these atrocities. I think if that air power were absolutely and unequivocally of a magnitude that could get that attention, then it would work. But, in my judgment, air alone will not satisfy the situation.

There is a very interesting fact of Kosovo that is well known: that the Kosovar Albanians number about 90 percent of the population, and 10 percent are of Serb ethnicity. Yet, for the past several years, ever since Milosevic I think wrongfully stripped Kosovo province of a certain degree of its autonomy years ago, the Serbians have pretty well controlled that region. And they have used repressive forces against the Kosovars for years.

This insurrection did not happen overnight. It has been coming on for many years. I visited Kosovo in 1991 with Senator Dole, with Senator NICKLES, and others. We went into that region. And we saw with our own eyes the tension that was developing. But the point I wish to make, the air operation, I am confident, could be of such a magnitude as to seal off and stop the flow of supplies, the professional Army and, indeed, I think many of the supplemental police forces that have come down from Serbia to perpetrate these atrocities. That can be done.

But then we leave a region which is affiliated largely 90 percent with the Kosovar Albanians pitted against the 10 percent remnants of the Serbian force. And it is my judgment that that situation would quickly destabilize and you would experience atrocities of a greater magnitude than are taking place in the recent weeks and, indeed, for many, many months in that region.

I want to point out these atrocities, the greater proportion of the atrocities, I think, are directly linked to Milosevic and the Serbian interests. But there have been instances where the Kosovar Albanians have perpetrated atrocities of a comparable

magnitude in viciousness, but of course not in a magnitude of totality of loss of life in that region. So both sides come to this problem not with clean hands at all, in my judgment.

The Kosovar Albanians have as one of their objectives a greater Albania. You have virtual anarchy now in Albania. You have large populations of the refugees that have left Albania in Montenegro. That is destabilized. You have some in Macedonia. Indeed, these refugees are throughout this region. And in the event that force has to be used as a consequence of the failure of diplomatic efforts, my concern is that the KLA will view that as the allies, the nations of NATO, coming to their aid and supporting their long-term goal of a greater Albania. That is very troublesome, Mr. President, very troublesome.

That is why I believe—and, again, it is my judgment—that any military action to bring about a cessation of the current level of atrocities in Kosovo has to be associated with what I call a ground element or a stabilizing force that would prevent a greater level of insurrection amongst the populations of predominantly 90 percent Kosovar Albanians and 10 percent Serbs.

The PRESIDING OFFICER. The Senator from Virginia has only a few seconds left of his 15 minutes.

Mr. WARNER. Fine. I ask unanimous consent for additional time.

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

Mr. WARNER. I see that my distinguished colleague from Oklahoma is here. I could finish in 6 or 7 minutes.

Mr. NICKLES. No. Go ahead and finish.

Mr. WARNER. Fine. I will resume my remarks.

The PRESIDING OFFICER. How much more time does the Senator seek?

Mr. WARNER. Mr. President, I ask unanimous consent for 10 minutes.

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

Mr. WARNER. Mr. President, I go back to the situation and recap quickly. As I look at what is in the open, as I say, reported in the New York Times, the Washington Post—and recently we have had some excellent reporting about the military options being examined by NATO—they either intentionally or otherwise leave out any reference to a stabilizing force and the need for that force in Kosovo. And that is the basic reason why I take the floor of the Senate today, to express my own professional judgment that any air operation to alleviate the suffering here has to have, very speedily, a follow-up ground presence in Kosovo to prevent what I predict would be an increased clash among these peoples with the absence of a stabilizing force.

I think it is very important that the President, if he is contemplating the use of force, together with the heads of state of other nations, come to the Congress, come to the American people and point out—if I am wrong, point it out. But I have consulted a great many people about this situation. As I say, I saw it myself weeks ago. The hatred between the Kosovar Albanians and the remnants of the Serbs that are still there is incredible. It is beyond the ability of anybody really to explain it. They will fall upon themselves as they come down out of these hills.

There are maybe as much as a quarter of a million people—refugees—in these hills. When they return to their villages and homes, which I saw, which are burned and destroyed, and see the looting and the destruction, both of human beings and property, they will be incensed, and I think they will turn to fighting themselves. And that is a situation we cannot allow to happen as a consequence of an air operation there and in other areas of that region.

It would bring about greater instability, in my judgment, in Bosnia, that sort of insurrection. It could bring it about in Macedonia. It could feed into the instability here. Montenegro is an integral part of Serbia. There is a good deal of competition between the head of state and government in Montenegro and Milosevic in Serbia. And that situation would be exacerbated.

You must always remember, if airstrikes go against the Serbs, Greece historically has had long relationships with Serbia, as has Russia. Russia now has a very important part of the military that is stationed in Bosnia. What are the consequences that will flow with those two nations if we strike against Serbia?

So I basically conclude my remarks by saying that I think that any operation will have to explain why it is the judgment of those preparing this operation that the ground element is not necessary before this Senator is going to sign off and lend his support.

In my judgment, it is an essential part of any operation to prevent what I predict would be a greater increase of tragedies there. Nevertheless, with the absence of the Serbian Army and the police, other fighting would quickly fall behind.

Furthermore, if you are to help these quarter of a million refugees, you have to bring in food, medicine, supplies and shelter. How could these be brought in if there is a virtual civil war going on? Therefore, without a stabilizing force, you are not going to be able to get the NGO support and such other support that is essential to be brought to bear in that region in the coming weeks, as weather closes in on these hopeless, hapless people who are now confined in the hills.

Furthermore, if you start bombing in this region, that will create another group of refugees who will begin to flee from the sites that either have been bombed or sites that are likely to be bombed if the first raid or the second raid doesn't succeed. So the quarter million down here will grow in number by many more refugees in this situation. Then they will start, in my judgment, flowing across the borders.

I do not believe to the extent this plan has been discussed in the open—largely by the press—that this is a workable operation. At this time I could not lend my support, although I support a plan that would bring about the cessation of this tragic killing that is going on in Kosovo. The likely and precipitous undermining of what progress we have made in Bosnia and the fact that NATO would be viewed as not fulfilling its mission under the leadership of the United States are the reasons compelling us to look at this operation.

If we are going to do it, let's make certain we do it properly to achieve the goals of humanitarian relief and the lessening of the killings.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to congratulate and compliment my colleague from Virginia for a very thoughtful speech, and also for his homework in this area, and the fact that he spent some time traveling to this troubled region of the world.

I had the pleasure of traveling with Senator WARNER and Senator Dole, I believe in 1991. We met with Mr. Milosevic and we traveled into Kosovo. I became convinced that Mr. Milosevic was a tyrant. I still believe he is. He needs to be stopped. We need to have affirmative action to stop him. We have had strong words from this administration. We have had very little action. I am not convinced they have a plan that will fully complement their desires, so I am concerned about that.

But I am also working with other colleagues in this body to try to see that the United States and NATO stand up to Milosevic and try to develop a plan that is workable. I appreciate the fact that my colleague from Virginia is willing to speak out and lend his experience and education in this area. Maybe together we can come up with something that will work and stop the atrocities, but also avoid some of the pitfalls that could easily have happened in Bosnia, where some of us were concerned about the cost and the expense.

Some of us felt misled by this administration when they said we would only be in Bosnia for a short period of time. We stated that wasn't the case. We knew that wasn't the case. We knew we wouldn't be limited to 1 year. Frankly, they misled Congress and they misled the American people as far as the commitment in Bosnia. I want to avoid that repetition of that as it pertains to Kosovo.

I appreciate my colleagues' comments.

Mr. WARNER. Mr. President, I thank my distinguished colleague and friend. I wish to commend the leadership of Senator LOTT and yourself, Senator HELMS, Senator THURMOND, Senator DOMENICI, Senator MCCAIN, and many of us who have quietly begun to try to

look at this situation, to give constructive advice to Senator LOTT and yourself. I think that, hopefully, that message will get to the administration.

At the moment, I am expressing my own view. I am not satisfied with what I have seen in the open about this plan. I think it has to incorporate pieces which will bring about a stabilization of the potential conflict that could take place in the aftermath of an airstrike.

The Senator rightly points out we had the Joint Chiefs before the Armed Services Committee the other day seeking additional funds for critical needs in our forces, and we have now expended by our Nation up to $9 billion in Bosnia—much of that coming out of the military budget. It is unprogrammed, unbudgeted. We are taking funds out of R&D, operation and maintenance accounts. That has a direct adverse effect on the readiness and the lifestyle of our men and women in the Armed Forces.

We will take steps to correct that, but I think the Senator is absolutely right. I thank the Senator and the distinguished majority leader for the work they have done.

Mr. NICKLES. Mr. President, to conclude the dialog on Kosovo, the administration gave most Members of the Senate a briefing yesterday, but they have a lot of work to do. They have a lot of work to do if they are going to convince the Congress, if they are going to convince the American people. They have a lot of leveling with the American people as far as the expense, as far as the obligation, as far as what the next step is after the first phase. They haven't answered those questions.

That is not exactly what I call ''consulting with Congress.'' Maybe we had a little dialog with the administration, but we have a lot of work to do yet.

Mr. WARNER. I thank my colleague for bringing that up. I participated, of course, in those briefings.

I am not here to advocate the U.S. ground forces in Kosovo. It seems to me if there is an air operation that the United States—because of its particular type of aircraft and munitions—would have to take a lead in that and then the role of the stabilization force should fall to other allies, in my judgment. I think you can't have one without the other.

I thank my colleague.

Mr. NICKLES. Mr. President, I ask unanimous consent to speak for an additional 10 minutes.

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

INTERNATIONAL RELIGIOUS FREEDOM ACT

Mr. NICKLES. Mr. President, earlier today, I, Senator LIEBERMAN, Senator SPECTER, Senator COATS, Senator AKAKA, as well as Congressman WOLF, and other leaders of various religious organizations, had a press conference discussing the International Religious Freedom Act. We came out and spoke in favor of Congress passing the International Religious Freedom Act this year.

I tell my colleagues, I very much hope and expect we will do that. I think it is one of the highest priorities we have left before we adjourn this session.

The issue of religious persecution and freedom is an issue that I have been working on, as many others have, for a long time. I very much value the opportunity and the right and the privilege that I have as an American citizen to worship as I please, where I please, how I please. In fact, I believe it is one of the most precious rights that any of us have as a citizen of this country.

Unfortunately, too many people in too many countries do not have that right. It is unfortunate that in many places all around the world, religious persecution is a common practice. It happens in more countries than we can imagine. There are far too many state laws and policies that restrict religious freedom.

For many years, I have worked with my colleagues, Senator HELMS, Senator LUGAR and Senator Nunn, to help win freedom for those around the world who suffer because of religious beliefs. While we have been successful on many occasions, sadly, in some cases, we haven't been. Most of this work has been done, I might mention, quietly and behind the scenes.

In 1996, I was honored to sponsor a Senate resolution on religious persecution, which passed by unanimous consent. In that resolution, the Senate made a strong recommendation ''that the President expand and invigorate the United States' international advocacy on behalf of persecuted Christians, and initiate a thorough examination of all the United States' policies that affect persecuted Christians.''

Unlike the resolution that we helped get through the Senate 2 years ago, the legislation we are talking about today makes no distinction as to the faith of those who are being persecuted. This bill, I believe, will benefit all persons of all faiths who are persecuted for practicing their religion.

Congressman FRANK WOLF and Senator ARLEN SPECTER have done a great job during the past year and a half in bringing this issue to the attention of the American public. I want to thank my friend, Congressman WOLF, for his leadership in the House, and of course all those persons in the House who passed a similar bill with a record vote, 375–41. Now, we in the Senate have a historic opportunity to finish the job that was started by the House, by passing the International Religious Freedom Act.

I also want to thank my colleague, Senator SPECTER, for his leadership as original sponsor of the resolution. His work on our legislation, I think, has added considerably to the effectiveness of the bill.

I also want to thank Senators GRAMS and HAGEL who worked with us to modify the bill to ensure that what we are doing is responsible and it is done in a careful way. I think with their efforts we have crafted a bill that can be supported by all Senators, as evidenced by the fact that a broad spectrum of grassroots organizations have endorsed this bill.

We have 29 Senate cosponsors, and I expect we will have more shortly. We have 21 groups that are supporting our bill who are advocating religious freedom. Those organizations include: the Religious Liberty Commission of the Southern Baptist Convention, the National Association of Evangelicals, the International Fellowship of Jews and Christians, the Christian Coalition, the Episcopal Church, the Anti-Defamation League, Advocates International, the National Jewish Coalition, Traditional Values Coalition, American Jewish Committee, Justice Fellowship, the Catholic Conference, B'Nai B'rith International, the Evangelical Lutheran Church of America, Catholic Conference of Major Superiors of Men's Institutes, Jewish Council for Public Affairs, Union of American Hebrew Congregations, Union of Orthodox Jewish Congregations of America, National Conference of Soviet Jewry, the United Methodist Church-Women's Division, and the American Coptic Association.

The Episcopal Church stated the following about the International Religious Freedom Act in a letter to each office on Capitol Hill:

> The Nickles-Lieberman bill is a moderate, flexible response to human rights abuses that strikes the right balance between imposing inflexible sanctions in overlooking serious human rights abuses.

The Catholic conference stated the following in a letter to my office:

> The bill is a reasonable and thoughtful effort to ensure that religious liberty has its rightful place in U.S. policy while preserving the authority of the Executive to pursue legitimate foreign policy goals. It deserves broad, bipartisan support and should be considered before Congress adjourns.

B'nai B'rith International, The Union of American Hebrew Congregations, and The Union of Orthodox Jewish Congregations of America signed a letter to me stating:

> Passage of this bill would underscore our nation's commitment to human rights worldwide and lend hope to millions of religious believers who suffer because of their faith. Failure to act now on this legislation would send a dangerous signal to persecutors that they can act with impunity.

Unfortunately, it is a tragic reality that literally millions of religious believers around the world live with the terrifying prospect of persecution—of being tortured, arrested, imprisoned, or even killed simply for their faith. Millions more around the world are denied, by government policy, the ability to practice their religion.

I believe that this bill can be an effective tool in helping to resolve the problem of religious persecution throughout the world.

The International Religious Freedom Act will establish a process to ensure that on an ongoing basis, the United States closely monitors religious persecution worldwide.

International Religious Freedom Act uses a broad definition of religious persecution. This definition ranges in scope from the most egregious form of religious persecution—imprisonment, torture or death—to the most common—the inability of one to speak freely about one's religion, or to change religion. That's right. There are prohibitions in certain countries on changing your religion, on talking about your religion, or practicing your religion.

This is an important aspect of the bill. If the definition of religious persecution were limited to only torture, imprisonment or death, the International Religious Freedom Act would only cover about a few countries, and would not include about 80 to 85 percent of the religious persecution that takes place in the world—the ability to practice one's religion. We adopted this standard to ensure that we address the problem before it escalates to torture and murder.

Under the provisions of the International Religious Freedom Act, the President is required to take action against those countries that engage in religious persecution. However, the President is given a menu of options, fifteen items, from which he can choose the most appropriate response. In addition, the President is given the discretion to calibrate that action in response to each country's particular situation.

In essence, this allows the President to weigh a variety of factors such as strategic importance, the historical relationship between the United States and that country and the severity of the religious persecution in that country when determining an action.

I believe this flexibility also makes the International Religious Freedom Act more effective. We provide the President with a menu of options that makes it make likely that he will take action.

We need to keep our eye on the goal. The goal of our bill is not to punish countries, but to change behavior, and if it is more likely that the President will take an action, then it is more likely that behavior will change. And that, Mr. President, in my opinion should be the goal of any legislation dealing with religious persecution—changing behavior in other countries that persecute people because of their faith.

The International Religious Freedom Act, also seeks to promote religious freedom. The bill insists that U.S. foreign assistance should place a priority on developing legal protections and respect for religious freedom, by promoting exchanges and visits of religious leaders in the U.S. and abroad, and by making one of the priorities of our international broadcast programs the promotion of and respect for religious freedom.

This bill is not a classic case of Uncle Sam imposing his views on the world. Although the right to religious freedom undergirds the very existence and origin of this country, the bill only asks other countries to live up to the commitments they have made in international documents and agreements.

For example, article 1, paragraph 3 of the Charter of the United Nations states one of the purposes of the United Nations is to:

> Achieve international cooperation in . . . promoting and encouraging respect for human rights and for fundamental freedoms for all without distinctions as to race, sex, language or religion.

There are 185 members of the United Nations. Some of the members of the United Nations are the biggest violators of the right to religious freedom.

Article 18 of the Universal Declaration of Human Rights states:

> Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom either alone or in community with others and in public or private to manifest his religion or belief in teaching, practice, worship and observance.

According to a CRS memo, The Universal Declaration of Human Rights was originally adopted in 1948 at the UN by 48 of the countries that belonged to the UN at that time (eight countries abstained). The Universal Declaration of Human Rights is considered as a part of the United Nations and any country who has joined since 1948 subscribes to its principles. No ratification is required.

Some have suggested that it is inappropriate to elevate religion to a ''higher'' or ''privileged'' status in U.S. policy on human rights. But the reality is the opposite. We are trying to correct the neglect that has too long existed, where religious persecution has been given a lower priority than persecution based on political opinion, labor activities, sexual orientation, what have you. This bill is remedial for years of neglect. Religion must no longer be an afterthought of American human rights policy.

As the Catholic Conference stated in its letter to me:

> The bill is a reasonable and thoughtful effort to ensure that religious liberty has its rightful place in U.S. policy while preserving the authority of the Executive to pursue legitimate foreign policy goals. It deserves broad, bipartisan support and should be considered before Congress adjourns.

In June of this year, an Episcopalian Bishop from Pakistan, the Right Reverend Munawar Rumlash, or Bishop Manno as he is called in the United States, gave gripping testimony before the Senate Foreign Relations Committee about the plight of Christians in Pakistan.

Bishop Manno cited the following examples of religious persecution in Pakistan before the Senate Foreign Relations Committee that have occurred this year alone.

In January, Protestant Pastor Noor Alam was stabbed to death in front of his family. Two months before his death, Pastor Alam's church was demolished by a Muslim mob. When he was stabbed to death he was in the process of rebuilding his church for which he had received several death threats.

On April 27, 1998, Ayub Masih was condemned to death on charges he blasphemed the prophet Mohammed by favorably mentioning Salman Rushdie, the author of ''Satanic Verses.'' According to Freedom House, Mr. Rushdie's book has not been translated into the local Urdu language and is unavailable in Pakistan. It is improbable that Ayub Masih ever saw or read the book.

The blasphemy laws in Pakistan do not just impact Christians. According to the latest State Department Human Rights Report, the Ahmadis, a minority sect of Islam that does not accept Mohammed as the last prophet of Islam, also suffer from the religious policies in Pakistan.

Another country in the Middle East imprisoned some 30 Christians for distributing religious material just three months ago. There were credible reports that these people were beaten while in jail.

In Nepal, Hinduism is the state religion and it is illegal to convert. Several years ago a gentleman from Oklahoma was arrested for distributing religious material. I worked with our government to get him released from prison.

Just recently The American Coptic Association placed an ad in the Washington Times highlighting the trials that they are going through. I think there are something like 12 million Coptics in Egypt today.

Last summer our Government prepared a report on countries that engage in violations of religious freedom. Some 77 countries were listed in that report. I will include that report at the conclusion of my statement.

This is a problem, and we in the Senate have the power to try to do something to make improvements. That is what this bill is for. I believe the International Religious Freedom Act has the potential to significantly improve religious freedom throughout the world.

Mr. President, what was a mere resolution in 1996, I hope will become a reality in 1998. While in 1996 we acted with words, I hope we can act now with deeds by passing the International Religious Freedom Act.

I thank my colleague, Senator LIEBERMAN, for his leadership, and Senator COATS, who has worked on this very, very hard, and the 29 cosponsors that we have on this bill. I urge my colleagues to look at this bill, and to work with us to see if we can't pass this bill and make a very positive statement as the United States being a real leader to promote religious freedom throughout the world. I thank my colleagues for their patience.

I ask unanimous consent that a list of the countries that were included in the report on human rights and persecution listed in 1997 be printed in the RECORD.

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

COUNTRIES LISTED IN 1997 REPORT ON CHRISTIAN PERSECUTION

1. Afghanistan: Islam is the state religion. No Proselytizing allowed by non-Muslims.

2. Algeria: Islam is the state religion. Islamic extremists killed several Catholics in 1996.

3. Armenia: Laws forbid proselytizing except by the Apostolic Church. All churches must register with the government. Funding restrictions tightened so foreign-based churches may not be supported by funds outside Armenia.

4. Austria: Registration requirements for recognition. Recognition by the government means tax privileges. The Jehovah's Witness have not been recognized by the government.

5. Azerbaijan: No proselytizing by foreigners in Azerbaijan. Non-Orthodox Christian religions have credibly complained of official harassment.

6. Bahrain: Islam is the state religion. Proselytizing by non-Muslims is discouraged. Anti-Islamic writings are illegal. Both the Sunni and the Shi'a Muslim are subject to government control and monitoring.

7. Bangladesh: Islam is state religion. Foreign missionaries may proselytize, but their right to do so is not protected by the constitution. Many foreign missionaries have problems getting visas.

8. Belarus: Government directive issued in 1995 limits religious activity of foreign religious workers. The Orthodox Church is granted tax and financial advantages not given to other churches.

9. Belgium: The government provides subsidies to Catholics, Protestants, Judaism, Islam, Anglicanism, and the Greek and Russian Orthodox Church. Baptists and other evangelical churches were denied recognition.

10. Bhutan: Buddhism is the state religion. Conversion is illegal. Foreign missionaries are not allowed to proselytize, but they can operate educational and humanitarian efforts.

11. Bosnia: The government has ignored Catholic church burnings.

12. Brunei: Despite constitutional provisions providing for the full and unconstrained exercise of religious freedom the government routinely restricts non-Muslim religions by banning the importing of religious material and prohibiting proselytizing.

13. Bulgaria: Although the constitution calls for freedom of religion the government restricts this right for some non-Orthodox Christian groups. Mormons and the Jehovah's Witness have reported acts of official harassment.

14. Burma: The government has imposed restrictions on certain religious minorities. Christian bibles translated into local languages cannot be imported, and it is difficult to get permission to build churches and mosques.

15. Burundi: There is no restriction on religion. However, religious leaders of the Hutu tribe have been arrested for aiding Hutus rebels. Another religious leader was arrested and has not been charged.

16. Cameroon: The government has registration requirements and has verbally attacked the Catholic Church for being supportive of the political opposition.

17. Central African Republic: Has a provisions of law prohibiting religious fundamentalism which is understood to be aimed at Muslims.

18. China: The government seeks to restrict religious practice to government controlled and sanctioned religious organizations. Leaders of house churches have been jailed and beaten.

19. Colombia: Jehovah's Witness and members of the Mennonite Church have complained that they are not allowed an alternative to military service even though Colombia's constitution calls for this.

20. Comoros: A government established council ensures that its laws abide with the law of Islam. Non-Muslims are allowed to practice their faith, but not proselytize.

21. Congo: Religious leaders have been jailed for criticizing the government.

22. Croatia: The government discriminates against Muslims in issuing documents.

23. Cuba: Although restrictions on religion have eased—especially because of the Pope's visit—the government still maintains a restriction on selling business machines to Churches. Pentecostal Churches have been closed in the last year.

24. Djibouti: Islam is the state Religion. Proselytizing while not illegal is discouraged.

25. Egypt: Religious practices that conflict with Islamic law are prohibited. Christians complain that their lives and property are not adequately protected by the police. Converts to Christ have been beaten and jailed.

26. Equatorial Guinea: Catholic clergy beaten & jailed for political sermons.

27. Eritrea: General religious freedom, except the Jehovah's Witness are denied government housing and passports.

28. Estonia: Some disputes have arisen over its registration requirements, but this has not hampered freedom of religion.

29. Ethiopia: Skirmishes between religions have resulted in claims by the Protestants that they are not being adequately protected by the police.

30. France: Certain churches get government subsidies. Some 172 religions have been labeled as a criminal sect.

31. Germany: Certain churches get government subsidies.

32. Greece: Muslims complain the government is thwarting their efforts to build a mosque in Athens. Mormons, Jehovah's Witness and Scientologists have been arrested by the police for proselytizing.

33. India: The government has refused to allow foreign missionaries into the country for long stays since the 1960s. Missionaries can stay for short periods of time on a tourist visa only.

34. Indonesia: The government only recognizes five religions (Islam, Catholics, Protestant, Buddhism and Hinduism). Marriages performed outside of these religions have difficulty being recognized. The Jehovah's Witness have been banned.

35. Iran: There are religious restrictions on non Shiites. Christians are arrested. Two Bahai men were killed under circumstances that has led many to believe they were killed for their beliefs.

36. Iraq: Restrictions on religion exist. There is a ban on Muslims call to prayer in certain cities and bans on books and funeral processions. Security forces are reported to have killed between 40 and 500 religious pilgrims.

37. Israel: Jehovah's Witness have reported buildings being looted, and complain that the police have not adequately investigated these attacks.

38. Jordan: Non-Muslims can't proselytize to Muslims. Some religions not recognized by the government.

39. Kazakstan: Foreign missionaries have complained of harassment by low-level government officials.

40. Kenya: Government has interfered with religious educations which it claims supported the opposition.

41. North Korea: Although the constitution calls for freedom of religion the government discourages all religious activity.

42. Kuwait: Islam is the state religion. The government prohibits proselytizing among Muslims.

43. Kyrgyz Republic: The government does not always ensure religious freedom. A Baptist congregation has been denied the ability to register with the government.

44. Laos: The government restricts religious freedom. There are reports of Christians being harassed. There are also restrictions on the imports of foreign religious publications.

45. Latvia: Religions are required to register. Jehovah's Witness are denied registration. This makes it very difficult for them as they are perceived as an illegal group.

46. Lebanon: Religious denomination determines who can hold the highest positions in government.

47. Lithuania: While the government generally allows freedom of religion, certain religions are having trouble getting registered.

48. Malaysia: Islam is the state religion. There are some restrictions on other religions.

49. Maldives: Severe restrictions on religion. Citizens are required to be Muslim. Conversions may result in a loss of citizenship. The practice of any other religion besides Islam is prohibited.

50. Mauritania: Proselytizing by non-Muslims prohibited. Conversion from Islam to another religion is prohibited.

51. Mexico: Local official do not always allow religious freedom.

52. Moldova: A 1992 law contains restrictions on proselytizing. Several Protestant religions are concerned that this could inhibit their activities.

53. Morocco: Islam is the official religion. Attempts to convert a Muslim are illegal and several Christian missionaries have been expelled from Morocco for proselytizing.

54. Nepal: Conversion and proselytizing are prohibited.

55. Nicaragua: Catholic Church bombings in 1996 blamed on extremists..

56. Nigeria: Open-air religious services are banned. Soldiers beat participants in an Easter-day parade.

57. Pakistan: Religious intolerance prevails. Blasphemy laws make it difficult for other religions besides Islam to grow. Proselytizing among Muslims is illegal.

58. Peru: Mormons harassed in Peru in 1996, problem declining.

59. Romania: Problems with low-level government harassment of several Protestant denominations.

60. Russia: Passed law that prohibits religious freedom in 1997. While this law is complex and contradictory, several denominations have been punished by local authorities for practicing their faith.

61. Saudi Arabia: No freedom of religion exists. The government does not permit non-Muslim religious activities. Police have been known to beat and jail those who do.

62. Serbia: Although there generally is freedom of religion, the government gives preferential treatment to the Orthodox Church.

63. Singapore: Jehovah's Witness are banned. Arrests have been made of them.

64. Slovakia: Subsidies provided to registered churches.

65. Somalia: Proselytizing prohibited except for Muslims.

66. Sri Lanka: Buddhism is the official national religion. Discrimination from the Buddhist clergy is often targeted at Christian groups who have proselytized.

67. Sudan: Islam is the de facto state religion. There are reports of forced conversion of Christians to Islam, Christians are victims of slave raids and Christian children being sent to reeducation camps. Muslims may proselytize, but non-Muslims cannot.

68. Syria: The President of Syria must be Muslim. The government discourages proselytizing. Jews are generally barred from holding government positions. Reports indicate that the government closely monitors worship services.

569. Tunisia: The government views proselytizing as an act against public order. Foreigners suspected of proselytizing are deported. The government controls mosques and pays the salaries of the prayer leader.

70. Turkey: there is compulsory religious education for Muslims. proselytizing is not illegal, but foreign missionaries are sometimes arrested for disturbing the peace.

71. Turkmenistan: Churches are required to be registered by the government. Requirements that the church have at least 500 adherents have hampered the efforts of some religions from setting up legal religious organizations. Missionaries arriving at the airport with religious material have had that material confiscated.

72. Ukraine: An amendment to a 1991 law restricts the activities of non-native churches. Local government officials have impeded the efforts of foreign missionaries.

73. United Arab Emirates: Islam is the official religion. Non-Muslims are free to worship, but may not proselytize, or distribute religious material.

74. United Kingdom: Has a state religion. Blasphemy is illegal although the law is not enforced. There is freedom of religion.

75. Uzbekistan: Although the distribution of religious material is legal, proselytizing is not. The government does not register Christian groups of which they do not approve, and has sought to control the Islamic hierarchy.

76. Vietnam: Only two Christian religions are approved by the government—The Catholics and the Christian Missionary Alliance. Police have raided house churches and harassed ethnic Hmong Protestant for proselytizing.

77. Yemen: Islam is the state religion. There are restrictions on the followers of other religions—They are not allowed to proselytize. Security officials have been known to censor the mail of Christian clergy who minister to the foreign population.

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

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent to proceed for up to 30 minutes as if in morning business.

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

THE IMPEACHMENT PROCESS

Mr. BIDEN. Mr. President, during the past 26 years as a U.S. Senator, I, like all who sit here, have been confronted with some of the most significant issues that have faced our Nation in the last quarter century—issues ranging from who sits on the highest court of the land, the Supreme Court, to whether or not we should go to war. These and others are, obviously, weighty issues. But none of the decisions has been more awesome, or more daunting, or more compelling than the issue of whether to impeach a sitting President of the United States of America, a responsibility that no Senator will take lightly.

As imposing as this undertaking is, I am sad to say that I have had to contemplate this issue twice during my service as a U.S. Senator—once during the term of President Richard Milhous Nixon, and now.

While the circumstances surrounding these two events are starkly different, the consequences are starkly the same. The gravity of removing a sitting President from office is the same today as it was 26 years ago. And 26 years ago as a much younger U.S. Senator, I took to the floor on April 10, 1974, and said the following:

> In the case of an impeachment trial, the emotions of the American people would be strummed, as a guitar, with every newscast and each edition of the daily paper in communities throughout the country. The incessant demand for news or rumors of news—whatever its basis of legitimacy—would be overwhelming. The consequential impact on the Federal institutions of government would be intense—and not necessarily beneficial. This is why my plea today [that was 1974] is for restraint on the part of all parties involved in the affair.

It is somewhat presumptuous for any Senator to quote himself. But I cite it to point out that my views then with a Republican President are the same as my views today with the Democratic U.S. President. It is time for all parties involved in this affair to show restraint.

I rise today because I believe that we are not exercising the restraint as we should. Those words that I said 24 years ago have an uncanny ring to them. Furthermore, in 1974, I urged my colleagues in the U.S. Senate during the Watergate period to learn from the story of Alice in Wonderland. I cautioned then that they remember Alice's plight when the Queen declared, ''Sentence first and verdict afterwards.'' But the need for restraint then is even greater now than it was in 1974.

The impeachment question then was not as politically charged as it is today. In 1974, we were willing to hear all the evidence before we made any decision. We had men like Howard Baker and Sam Ervin. We had men like Chairman Peter Rodino. We had Democrats and Republicans. I remember a brilliant young Senator from Maine, who was then a Congressman named William Cohen, a Republican, and now our Secretary of Defense. He was a Congressman from Maine. I remember how serious they took the process, how much restraint they showed, and how bipartisan their actions were.

Today, I hope for our Nation's sake—not the President's, but for our Nation's sake—that we don't follow the Queen's directive in Alice in Wonderland to ''sentence first and verdict afterwards,'' and that we will make a wise judgment about the fate of the President after deliberate consideration.

My legal training combined with more than a quarter of century of experience in the U.S. Senate, a significant part of that as chairman of the Judiciary Committee, has taught me several important lessons. Two of these are lessons that I believe are appropriate now. First is that an orderly society must first care about justice; and, second, all that is constitutionally permissible may not be just or wise.

Let me repeat the latter. All that is constitutionally permissible to do may be not wise to do, or may not be just in the doing.

It is with these two very important lessons guiding me that I embark upon a very important decision involving our country, our Constitution and our President. The power to overturn and undo a popular election by the people for the first time in our Nation's history must be exercised with great care and with sober deliberation.

We should not forget that 47.4 million Americans voted for our President in 1996, and 8.2 million voted for the President's opponent. We should also not forget, as I tell my students in the constitutional law class I teach on separation of powers, that the entire essence of our constitutional system is built upon the notion of the consent of the governed, and when we deign to overturn a decision of the governed, we are on very thin ice.

I believe Members of Congress should begin their deliberation with a thorough understanding of the impeachment process. They should understand what the framers of the Constitution intended the standard of impeachment to be. I have heard no discussion of that issue thus far. And, further, how the framers of the Constitution intended the process to work; again, I have heard no discussion of that thus far.

Let me say at the outset that what President Clinton did and acknowledged to have done is reprehensible. It was, at a minimum, a horrible lapse in judgment, and it has brought shame upon him personally. It has brought shame upon the Office of the Presidency, and his actions have hurt his family, his friends, his supporters, the causes for which he fights, and the country as a whole. I am confident that he fully understands the gravity of what he has done now.

Let me also say that I have made no judgment. I have not made any decision on what I think should happen. I have not come to any conclusion as to consequences the President should face for his shameful behavior, because I believe the oath of office that I have taken on five solemn occasions—four which were right here in the well, and one which was in a hospital in Wilmington, DE—on those five occasions, the oath that I took I believe precludes me, and I will respectfully suggest any other Senator, from prejudging, as I and all other Senators may be required to serve as the Constitution dictates, as judge and juror in what may become the trial of this century. I can only make—and I would respectfully suggest

all of us can only make—an assessment after hearing all the evidence, evidence against the President and evidence in support of the President. No one knows, to the best of my knowledge, but the Lord Almighty, how all this will turn out. However, because this is the second time in my career I have had to face this awesome responsibility, I have given this topic a great deal of thought and consideration and would like to explore, with the indulgence of the Presiding Officer, some of the issues that I believe will surely confront responsible Members of Congress and all Americans as we enter this difficult period in our history.

Mr. President, the framers of the Constitution who met in Philadelphia in the summer of 1787 considered—and this is a fact little known, at least little spoken to—offering this country a Constitution that did not include the power to impeach the President. Let me reemphasize that. The founders considered not including in our Constitution the power to remove the President from office. After all, they reasoned, any wrongs against the public would be dealt with by turning the President out in the next election. To overturn an election, which I will speak to in a moment, would lend itself to political chicanery.

One delegate to the Constitutional Convention, Charles Pinckney of South Carolina, worried that the threat of impeachment would place the President under the thumb of a hostile Congress, thereby weakening the independence of the office and threatening the doctrine upon which our Constitution was built—the separation of powers. According to James Madison's notes, Pinckney called impeachment a ''rod'' that Congress would hold over the President.

In being reluctant to include any impeachment power, the framers were not trying to create an imperial Presidency. In fact, what they were worried about was protecting all American citizens against the tyranny of a select group. In their view, the separation of powers constituted one of the most powerful means for protecting individual liberty, because it prevented Government power from being concentrated in any single branch of Government. To make the separation of powers work properly, they reasoned, each branch must be sufficiently strong and independent from the other so that the power of one branch could not be encroached upon by the other.

The framers were concerned that any process whereby the legislative branch, the branch they deemed ''the most dangerous,'' could sit in judgment of a President who would be vulnerable to the abuse of partisan faction which, as my friend and Presiding Officer and gifted lawyer knows, was one of the overwhelming, recurring concerns of the founders—partisan politics. They feared that this most dangerous branch could sit in judgment of a President who would be vulnerable to abuse by partisan factions.

Federalist No. 65 begins its defense of the impeachment process which ultimately was included by warning of the dangers of the abuse—of the abuse—of the power. It argues, Federalist 65, that is, that impeachment:

> . . . will seldom fail to agitate the passions of the whole community, and to divide them into parties, more or less friendly or inimical, to the accused. In many cases, it will connect itself with the preexisting factions, and will enlist all their animosities, particularities, influence and interest on one side, or on the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of the parties than by the real demonstration of guilt or innocence.

Don't you find it kind of fascinating that the Federalist Papers, which were the 1787–1788–1789 version of advertising to sell the Constitution, don't you think it fascinating, instead of them writing about, warning about the abuse of power by the President requiring impeachment, they wrote about and were concerned about and more debate was conducted about the abuse of power by political factions in the legislative branch to overturn the will of the American people?

So the framers were fully aware that the impeachment process could become partisan attacks on the President—charged with animosities generated by all manner of trials, prior struggles and disagreements over executive branch decisions, over policy disputes, over resentment at losing the prior election, and God only knows what else.

Federalist No. 65 expresses the view that the use of impeachment to vindicate any of these animosities would actually be an abuse of power. So the power that they were at least equally in part worried about being abused was the partisan power of a legislative body to overturn a decision of the American people—giving too much power to the legislative branch at the expense of the executive branch, thereby diluting the separation of powers doctrine, concentrating it too much in one place and thereby jeopardizing the liberty and freedom of individual Americans.

This sentiment that I referred to about the abuse of power by this body and the House is as true today as it was when the Constitution was being written. It was also true when Richard Nixon faced impeachment in 1974. In fact, it would have been wrong for Richard Nixon to have been removed from office based upon a purely partisan vote. No President should be removed from office merely because one party enjoys a commanding lead in either House of Congress. And I would remind my colleagues that when I arrived here in 1973, and when the Nixon hearings were going on in 1974, the Democratic Party—and he was obviously a Republican—enjoyed an overwhelming, commanding plurality of votes. My recollection is there were roughly 64 Democratic Members of the Senate at the time, and a prohibitively large plurality of Democrats in the House of Representatives. In fact, it would have been wrong then, as it would be wrong now, to have removed him based upon the power that was in the hands of one party. No President should be removed merely because one party enjoys a commanding lead in either House of Congress.

Yet, while the framers knew that the impeachment process could become partisan, they needed to deal with the strong anti-Federalist factions that jeopardized the possibility of the Constitution being ratified by the requisite number of States. The anti-Federalists strenuously argued that the Federal Government would quickly get out of step with the sentiments of the people and become vulnerable to corruption and intrigue, arrogance and tyranny. These charges proved close to fatal as the ratifying conventions in the States took up the proposed Constitution.

It was with this looming danger in mind, of losing the ratification fight, that the Federalists decided to include the impeachment provision in the Constitution. The framers of the Constitution knew that the Constitution would have been even more vulnerable to charges of establishing a government remote from the people if the President were not subject to removal except at the next election.

James Madison's notes, again, of the Philadelphia Constitutional Convention, record his observations of the debate, where he said he:

> . . . thought it indispensable that some provision should be made for defending the community against the incapacity, negligence or perfidy of the chief magistrate, [that is, the President]. The limitation of the period of his service was not a sufficient security. He might lose his capacity after his appointment. He might pervert his administration into a scheme of speculation or oppression. He might betray his trust to foreign powers.

So, those concerns, those concerns expressed by Madison about whether or not the President might lose his ability to lead, might ''pervert his administration to a scheme of speculation or oppression, might betray his trust to a foreign power''—they were thought to be sufficient reason to include the power of impeachment in the Constitution. So, in the end, the framers of the Constitution risked the abuse of power by the Congress to gain the advantages of impeachment.

Once the decision to include the power of impeachment had been made, the remainder of the debate on the impeachment clause focused on two issues. The first debate, which we do not even talk about, was whether or not to give the power to the Congress to impeach, and weighed the advantages and disadvantages. The disadvantage was, it would lead to partisan bickering and abuse of power by the Congress. But that was outweighed, ultimately, in their minds, by the process that a President could and might subvert the interests of this country to a foreign power or subvert the office to

oppress the people or to take advantage of the office in a way that was inappropriate in the minds of the American people.

Once that decision was made, though, they then focused on, OK, we are going to include it, but—but—what was supposed to constitute an impeachable offense? Put another way, what was the standard going to be that they expected the Congress to use? And then they said: After we decide that, we have to decide how is impeachment to work? How is the process to be undertaken? And what were the procedures that should be set down as to how to approach such an awesome undertaking?

As we shall see, the framers proved unable to separate these two issues entirely. Understanding how they are entwined, however—that is, the question of what constitutes an impeachable offense and how is the mechanism to work—understanding how these two issues are intertwined, I believe, will help us to understand the full implications of the power that the Constitution gives those of us who serve in the Congress. The Constitution provides that the House of Representatives shall have the power to impeach—article I, section 2, clause 5.

The framers' decision that the House of Representatives would initiate the charges of impeachment follows the pattern of the English Parliament, where the House of Lords initiates charges of impeachment. Beyond this, the choice—the choice of the House being given this power—must have seemed fairly compelled by two related considerations.

The first, already mentioned, was the need to provide the people as a whole with assurances that the Government they were being asked to create would be responsive to the interests and concerns of the people themselves. So what better place to go than the people's house, the House of Representatives?

The second reason for the House being given this power to initiate was the framers' substantive understanding of the impeachment power. It was a power to hold accountable Government officers who had, in Hamilton's terms, committed ''an abuse or violation of some public trust,'' thereby committing an injury ''done immediately to the society itself.''

Keep in mind what they are talking about here—at least what Hamilton was talking about—as to what constituted the kind of offense that was contemplated to be impeachable: Something that was an abuse or violation of the public trust and done immediately to the society itself.

If the gravamen of an impeachment is the breach of public trust, no branch of the Federal Government could have seemed more appropriate to initiate such a proceeding than the House of Representatives, which was conceived and defended as the Chamber most in tune with the people's sympathies and hence most appropriate to reflect the people's views as to whether the society itself was done immediate harm.

The Constitution further provides that the President shall be ''removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.'' Article 2, section 4 of the U.S. Constitution.

The Constitution provides that ''the House of Representatives shall . . . have the . . . Power of Impeachment.'' Article I, section 2, clause 5. And the Senate shall remove from office on ''Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.''

This language, the language about what he should be removed for, went through several changes during the summer of 1787. In the initial drafts, the grounds for impeachment—once the debate was over as to whether or not to include impeachment as a power—the initial drafts, the grounds for impeachment, were restricted to treason and bribery alone, period; nothing else—not another single thing.

I remind my friends who call themselves strict constructionists—I have run into them over my 26-year career and, as chairman of the Judiciary Committee, have had numerous debates with now Supreme Court Justices, and some who are not Supreme Court Justices, on what is the proper methodology for interpreting the Constitution. Those who view themselves as strict constructionists say the words, if their plain meaning is clear, control.

Initially this debate, once impeachment was decided upon as a power that would be granted to the Congress, included impeachable offenses for only two purposes: Treason or bribery.

When the matter was brought up on September 8, 1787, George Mason, of Virginia, inquired as to why the grounds should be restricted only to those two provisions. He reasoned that there are other ways the public trust in government can be abused, so why only these two? He argued:

> Attempts to subvert the Constitution may not be treason as above defined.

So, accordingly, he moved to add the word ''maladministration'' as a third ground for impeachment.

James Madison objected to Mason's motion, contending that to add ''so vague a term''—the term being maladministration—to add ''so vague a term will be equivalent to a tenure during the pleasure of the Senate.''

Or put another way, if you said ''maladministration,'' the majority party in the House and the Senate could at any time overturn an election by alleging maladministration. So Madison came along and said, ''I understand what you are trying to do, old George, to Mason''—my words, not theirs—''I understand what you are trying to do here; we acknowledge that you can violate the public trust and abuse the office to do injury to the American people other than by treason and bribery.'' But if you read Madison's notes, if you read the debate, as I have, I challenge you to find an interpretation other than essentially what I am giving you here, which is this: ''But, George, if you put maladministration on, it will be subject to too much—too much—abuse. And, George, I acknowledge that something beyond treason and bribery can do harm. But, George, let's be careful what we add.''

They debated it. James Madison objected to the motion, as I said, because it was vague and here, again, we see the worry that impeachment would be misused by the Congress to reduce the independence of the President, allowing partisan factions to interfere at the expense of the larger public good and overturning the election or the consent of the governed being attacked because separation of powers had been reduced.

The objection on the part of Madison proved effective, because Mason subsequently withdrew the motion and came up with another phrase, and you know what the phrase was. It said: ''. . .or other high crimes and misdemeanors.''

Obviously, the context in which ''high crimes and misdemeanors'' was entered was to be something a heck of a lot more than maladministration and less than treason or bribery, or at least equal to.

What does this phrase mean? It is clear the framers thought it to be limited in scope, but beyond this, constitutional scholars of whom I have inquired and read have been debating the meaning of this phrase from the very early days of the Republic, and there is not a clear consensus. Despite this ongoing dialog and disagreement, though, I believe there are two important points of agreement in the minds of almost all constitutional scholars as to the original understanding of the phrase.

The PRESIDING OFFICER. The Chair informs the Senator that his 30 minutes have expired.

Mr. BIDEN. I ask unanimous consent to proceed for another 15 minutes.

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

Mr. BIDEN. Mr. President, despite this dialog, as I indicated, scholars agree on two important points and a third issue where the weight of history suggests subtle practice. Let me speak to that.

As we already have seen, the framers did not intend that the President could be impeached for maladministration alone. Second, a great deal of evidence from outside the convention shows that both the framers and the ratifiers saw ''high crimes and misdemeanors'' as pointing to offenses that are serious, not petty, offenses that are public or political, not private or personal.

In 1829, William Rawle authored one of the early commentaries on the Constitution of the United States. In it, Rawle states that ''the legitimate causes of impeachment . . . can only have reference to public character and official duty.

He went on to say:

In general, those offences which may be committed equally by a private person as a public officer are not—

Emphasis, not—

the subjects of impeachment.

In addition, more than 150 years ago, Joseph Story, as my learned colleague who is presiding knows was a lawyer, Joseph Story and his influential commentaries on the Constitution stated that impeachment is ''ordinarily'' a remedy for offenses ''of a political character,'' ''growing out of personal misconduct, or gross neglect, or usurpation, or habitual disregard of the public interests, in the discharge of the duties of political office.''

The public character of the impeachment offense is further reinforced by the limited nature of the remedy for the offense. In the English tradition, which we rejected, impeachments were punishable by fines, imprisonment or even death.

In contrast, the American Constitution completely separates the issue of criminal sanctions from the issue of removal from office.

Our Constitution states that, ''Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States. * * * '' Article I, section 3, clause 7.

The remedy for violations of the public's trust in the performance of one's official duties, in other words, is limited to removal from that office and disqualification from holding further office; remedies that, I might add, correspond nicely to the public nature of the offenses in the first instance.

Additional support comes from another commentator, James Wilson, a delegate to the Convention from Pennsylvania. In his lectures on the Constitution, Wilson wrote:

In the United States and Pennsylvania, impeachments are confined to political characters, to political crimes and misdemeanors, and to political punishments.

All in all, the evidence is quite strong that impeachment was understood as a remedy for abuse of official power, breaches of public trust, or other derelictions of the duties of office.

The third point to make about the scope of the impeachment power is this: To be impeachable, an offense does not have to be a breach of the criminal law.

The renowned constitutional scholar and personal friend and adviser, the late Phillip Kurland, the leading constitutional scholar of this century, I argue, wrote that:

At both the convention that framed the Constitution and at the conventions that ratified it, the essence of an impeachable offense was thought to be breach of trust and not violation of criminal law. And this was in keeping with the primary function of impeachment, removal from office.

If you put the notion that an impeachable offense must be a serious breach of an official trust or duty, together with the point that it does not have to be a criminal violation, you reach the conclusion that not all crimes are impeachable, and not every impeachable offense need be a crime.

These points provide important anchors for any impeachment inquiry, but they do not resolve all the questions of scope that may arise. Much remains to be worked out, and only to be worked out, in the context of particular circumstances and allegations. As Hamilton explained in Federalist 65 impeachment ''can never be tied down by * * * strict rules, either in the delineation of the offense by the prosecutors or in the construction of it by the judges. * * *''

After all the legal research, we are still left with the realization that the power to convict for impeachment constitutes an ''awful discretion.''

This brings us directly to the Senate's role. To state it bluntly, I believe the role of the U.S. Senate is to resolve all the remaining questions. Let me elaborate.

The Senate's role as final interpreter of impeachments was recognized from the beginning of the Republic. For example, to refer again to Joseph Story, after he devoted almost 50 sections of his commentaries to various disputed questions about the impeachment power, he concluded that the final decision on the unresolved issues relating to impeachment ''may be reasonably left to the high tribunal, constituting the court of impeachment.''

I.e., the U.S. Senate, the floor upon which I stand.

The court of impeachment, the Senate, similarly was viewed in the Federalist Papers and referred to Senators as the judges of impeachment. Speaking of the Senate as the jury in impeachment trials is perhaps a more common analogy these days as you turn on your television and hear many of us speak. But the judge analogy is a more accurate analogy than the juror analogy.

In impeachment trials, the Senate certainly does sit as a finder of fact, as a jury does. But it also sits as a definer of the acceptable standards upon which the President is being judged, as a judge would do. The Senate, in other words, determines not only whether the accused has performed the acts that form the basis for the House of Representatives' articles of impeachment but also whether those actions justify removal from office.

So let's lay to rest this idea that if the President—any President—is impeached by the House of Representatives, and specific articles are alleged of violations, and we find the President violated the very charge that the House has made—that does not mean we must vote for impeachment, for we can reject the grounds upon which the House impeached in the first instance as being not sufficiently sound to meet ''high crimes and misdemeanors.'' There is no question about that, and yet it seems to be a question in the minds of the press. There is no question about that.

Once again, we find support for this view from our country's history. In two of the first three impeachments brought forward from the House to the U.S. Senate, the Senate acquitted the accused. In each of the two acquittals, however, the Senate did not disagree with the House on the facts.

One case involved a Senator, William Blount, the other an Associate Justice of the Supreme Court, Samuel Chase. In neither one was there any question that the individual had done the deeds that formed the basis of the House's articles of impeachment. Yet in each case the Senate concluded that the deeds were not sufficient to constitute valid grounds for impeachment, and so they acquitted.

Eventually then, if the current impeachment proceeds, it will fall to the Senate to decide not only the facts but the law and to evaluate whether or not the specific actions of the President are sufficiently serious to warrant being thrown out of office—being convicted.

The framers intended that the Senate have as its objective doing what was best for the country, taking context and circumstances fully into account.

I should try to be as clear as I can about this point because the media discussions have come close to missing it. It seems to be widely assumed that if the President committed perjury, for example, then he must be impeached, and he must be convicted if the Senate concludes he perjured himself. Conversely, you may think that unless it can be proven that the President committed perjury, or violated some other criminal statute, that impeachment cannot occur. Both sentiments and statements are wrong.

Recall what I said earlier: Not all crimes are impeachable offenses and not every impeachable offense need be a crime to throw a President out of office.

The Senate, for example, could decline to convict, even if the President had committed perjury, if it concluded that under the circumstances this perjury did not constitute a sufficiently serious breach of duty toward removal of the President. There is no question about that either.

On the other hand, the Senate could convict a President of an impeachable offense even if it were not a violation of the criminal law. For instance, if the Senate concluded that the President had committed abuses of power sufficiently grave, it need not find any action to amount to a violation of some criminal statute.

Let me give you an example. If there was overwhelming proof that every day the President came to his office, the Oval Office, drunk, that is not a crime, but it is impeachable—it is impeachable—committing no crime, but is impeachable. Conversely, if the Senate can conclude that the President lied

about whether or not he had an affair, they could conclude that did not constitute an impeachable offense warranting expulsion. Now, again I am not prejudging what we should decide, but I think it is very important we understand what latitude and obligations we have.

Let me now stand back from the issue of substance and procedure and look at the impeachment mechanism as it has actually functioned in our country's history. The proof of the framers' design, after all, will be in how the mechanism has worked in practice.

I am almost finished, Mr. President.

As we have seen, the framers worried that impeaching a sitting President would most likely be highly charged with partisan politics and preexisting factions, enlisting, as they said, all of the ''animosities, partialities, and influence and interest'' that inevitably swirl around a sitting President. History shows, Mr. President, they had it right from the get-go. They had it right. And they were right to worry about it.

Prior to the case of President Nixon, Presidential impeachment had only been used for partisan purposes. History tells us that John Tyler was an enormously unpopular President, facing a hostile Congress dominated by his arch political enemy, Henry Clay—one of the several people younger than me when he got here. He was an amazing guy. Here he was, a leader in the House of Representatives before he was 25, and he became a U.S. Senator before he was 30.

During the impeachment effort of John Tyler, what he was facing, Tyler, was a hostile Congress dominated by the young Henry Clay. After several years of continual clashes, numerous Presidential vetoes, and divisive conflicts with the Senate over appointments, a select committee of the House issued a report recommending a formal impeachment inquiry.

President Tyler, not being as dumb as everyone thought, reached out to his political enemies. How did he do that? He signed an important bill raising tariffs, which had been one of the reasons that there was such animosity between him and Henry Clay and his friends. He raised tariffs which he had formerly opposed. And he found other means of cooperation with Congress.

In the end, even Henry Clay, speaking from the floor of the U.S. Senate, urged the slowdown on the impeachment proceedings that he had moved to initiate, suggesting instead a lesser action of a ''want of confidence.'' ''Want of confidence''—does it sound familiar? Does it sound at all like the idea of having the President sanctioned in some way other than impeachment? Does it sound like censuring the President? ''Want of confidence.''

So Clay suggested that a ''want of confidence'' vote, rather than a formal impeachment proceeding, might be better. So in early 1843, the resolution to proceed with an impeachment—whether to proceed with the impeachment inquiry, was defeated on the House floor, 127–83. They had already begun the process of inquiry, and along came Tyler, and he said, ''I'll make peace with you.''

In 1868, Andrew Johnson came much closer to conviction on charges of serious misconduct. No southerner will be unaware of—I ask unanimous consent that I be able to proceed for another 10 minutes.

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

Mr. BIDEN. As every southern Senator knows, Andrew Johnson came much closer to conviction on the charges of serious misconduct. Although Johnson's impeachment proceedings ostensibly focused on his disregarding the Tenure in Office Act, historians—and not a single southerner does not understand—but historians uniformly agree that the true sources of opposition to President Johnson were policy disagreements and personal animosity.

The conflict this time was between Johnson's moderate post-Civil War policies toward the Southern States and the overwhelming Republican majorities in both Chambers. The Republicans feared dilution of their voting strength if the southerners were seated.

Johnson's defenders in the Senate were eventually able to hold on to barely enough votes to prevent his conviction. In Professor Raoul Berger's view, ''Johnson's trial serves as a frightening reminder that in the hands of a passion-driven Congress, the process may bring down the very pillars of our constitutional system.''

Yet, if the cases of Tyler and Johnson substantiate the framers' fears, the Nixon situation vindicates the utility of the impeachment procedures. Notice how different the Nixon proceedings were from Tyler's and Johnson's. As the Nixon impeachment process unfolded, there was broad bipartisan consensus each step of the way. I was there at the time.

While it would have been foolish to believe that Members of Congress did not worry about the partisan political repercussions of their actions, such factional considerations did not dominate decision making.

Political friends and foes of the President agreed that the charges against the President were serious, that they warranted further inquiry and, once there was definitive evidence of serious complicity and wrongdoing, a consensus emerged that impeachment should be invoked. The President resigned after the House Judiciary Committee voted out articles of impeachment by a 28–10 vote.

For me, several lessons stand out from our constitutional understanding of the impeachment process and our historical experience with it. Furthermore, I believe that a consensus has developed on several important points.

While the founders included impeachment powers in the Constitution, they were concerned by the potential partisan abuse. We should be no less aware of the dangers of partisanship. As we have seen, the process functions best when there is a broad bipartisan consensus behind moving ahead. The country is never well served when either policy disagreements or personal animosities drive the process.

Many scholars who have studied the Constitution have concluded that it should be reserved for offenses that are abuses of the public trust or abuses that relate to the public nature of the President's duties. Remember, what is impeachable is not necessarily criminal and what is criminal is not necessarily impeachable.

The Senate in particular has wide latitude in determining the outcome of this constitutional process. Just because the House may initiate an impeachment process does not mean that the Senate will conclude that the process with a vote on articles of impeachment was a correct process. It is well within our constitutional responsibilities to consider alternatives to impeachment if we find that circumstances warrant these alternatives.

I don't know that they will and I don't know that we will get there, but again, the debate is being waged as to whether or not it is in our constitutional power to consider alternatives. Remember Senator Henry Clay's ''want of confidence.''

There is no one-size-fits-all definition of impeachable offenses, divorced from such practical considerations. The Senate in particular, has an obligation to consider the full range of consequences of removing the President from Office.

In recent days, some have suggested that because the Starr Report provides a prima facie case and prima facie evidence of what are arguably impeachable offenses, the House and the Senate have a constitutional responsibility to see the impeachment process through to its conclusion.

In my view, the constitutional history that I have sketched here and more shows this position is entirely mistaken. Indeed, if anything, history shows a thoroughly understandable reluctance to have the procedure invoked in the first place.

Stopping short of impeachment would not be reaching a solution ''outside the Constitution.'' It would be entirely compatible and consistent with what the Founders contemplated, if that is what we decide. Again, I am not prejudging what we should decide.

The 28th Congress hardly violated its constitutional duty when the House decided that, all things considered, terminating impeachment proceedings after cooperation between the Congress and the President improved was a better course of action than proceeding with impeachment based on his past actions, even though it apparently did so for reasons no more laudable than those that initiated the process in the first place.

Impeachment was and remains an inherently political process, with all the pitfalls and promises that are thus put into play by politics. Nothing in the document precludes the Congress from seeking means to resolve this or any other putative breach of duty short of removing him from office. In fact, the risky and potentially divisive nature of the impeachment process may counsel in favor of utilizing it only as an absolute last resort where there is no shadow of a doubt that it meets, the criteria of treason, bribery, or other high crimes and misdeameanors.

Of course, impeachment ought to be used if the breach of duty is serious enough—what the Congress was prepared to do in the case of Richard Nixon was the correct course of action. However, nothing in the constitution precludes the Congress from resolving this conflict in a manner short of impeachment.

The critical question—the question with which the country is currently struggling—is whether the President's breaches of conduct and shameful activity, which are now well known and which have been universally condemned, warrant the ultimate political sanction. Are they serious enough to warrant removal from office?

In answering that, we need to ask ourselves, What is in the best interests of the United States of America? That is something that the founders contemplated us asking ourselves if and when faced with this question.

While I have not decided ultimately what should happen, I do want to suggest that it certainly is constitutionally permissible to consider a middle ground as a resolution of this matter. Such an approach might bring together those of the President's detractors who believe there is a need for some sanction, but are willing to stop short of impeachment, as well as those of the President's supporters who reject impeachment, but are willing to consider that some sanction ought to be implemented.

As a country, Mr. President, we have not often faced decisions as stark and potentially momentous as the impeachment of a President of the United States. On the other hand, we would be wise not to overstate such claims. Surely we have faced some moments as stark and serious as this one. We have survived those moments and we will survive this one no matter how we handle it. As my dad always says, and he is going on 85 years of age, I remember over the last 26 years going home and saying, ''Dad, this is a catastrophe,'' and he would look at me and say, ''JOE, this country is so good, it is so strong, it is so solid, that it can stand 4 or 8 years of anybody or anything.'' And he is right. He is right. So I don't want to exaggerate this.

Whatever the outcome of the present situation, I'm confident that our form of government and the strength of our country present us not with a constitutional crisis but rather with a constitutional framework and flexibility to deal responsibly with the decisions we face in the coming months. My purpose in rising today is to remind all of us of what that constitutional framework and flexibility mean, what they are.

In my closing plea I begin where I started, as a young Senator in April of 1974. This is a time for us to be cautious. This is a time for Members of this body to hold our fire. This is the time to be prepared to exercise our responsibility to be judge and jury after, and only after, all of the facts are presented to us. This is not a constitutional crisis but it is a serious, serious business.

I yield the floor.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:27 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2392. An act to encourage the disclosure and exchange of information about computer processing problems, solutions, test practices and test results, and related matters in connection with the transition to the year 2000.

The message also announced that the House insists upon its amendments to the bill (S. 2073) to authorize appropriations for the National Center for Missing and Exploited Children and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. GOODLING, Mr. CASTLE, Mr. SOUDER, Mr. HYDE, Mr. MCCOLLUM, Mr. HUTCHINSON, Mr. MARTINEZ, Mr. SCOTT, Mr. CONYERS, and Ms. JACKSON-LEE of Texas as the managers of the conference on the part of the Houses.

The message further announced that the Houses disagree to the amendment of the Senate to the bill (H.R. 3874) to amend the National School Lunch Act to and the Child Nutrition Act of 1996 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Education and the Workforce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. GOODLING, Mr. RIGGS, Mr. CASTLE, Mr. CLAY, and Mr. MARTINEZ.

From the Committee on Agriculture, for consideration of section 2, 101, 104(b), 106, 202(c), and 202(o) of the House bill, and sections 101, 111, 114, 203(c), 203(r), and titles III and IV of the Senate amendment, and modifications committed to conference: Mr. SMITH of Oregon, Mr. GOODLATTE, and Mr. STENHOLM.

ENROLLED BILL SIGNED

At 3:03 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 6 An act to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

At 4:23 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

MEASURES REFERRED

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

H.R. 4595. An act to redesignate the Federal building located at 201 Fourteenth Street Southwest in the District of Columbia as the ''Sidney Yates Federal Building''; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution were read the second time and placed on the calendar:

S. 2529. A bill entitled the ''Patients' Bill of Rights Act of 1998.''

S.J. Res. 59. Joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1419. A bill to deem the activities of the Miccosukee Tribe on the Tamiani Indian Reserve to be consistent with the purposes of the Everglades National Park, and for other purposes (Rept. No. 105–361).

By Mr. SPECTER, from the Committee on Veterans' Affairs, with amendments and an amendment to the title:

S. 2358. A bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes (Rept. No. 105–362).

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

S. 1905. A bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes (Rept. No. 105–363).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2217. A bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes (Rept. No. 105–364).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 81. A bill to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the ''Robert K. Rodibaugh United States Bankruptcy Courthouse.''

H.R. 2225. A bill to designate the Federal building and United States courthouse to be constructed on Las Vegas Boulevard between Bridger Avenue and Clark Avenue in Las Vegas, Nevada, as the ''Lloyd D. George Federal Building and United States Courthouse.''

H.R. 2379. A bill to designate the Federal building and United States courthouse located at 251 North Main Street in Winston-Salem, North Carolina, as the ''Hiram H. Ward Federal Building and United States Courthouse.''

H.R. 3223. A bill to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building.''

H.R. 3696. A bill to designate the Federal Courthouse located at 316 North 26th Street in Billings, Montana, as the ''James F. Battin Federal Courthouse.''

H.R. 3982. A bill to designate the Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, as the ''Terry Sanford Federal Building.''

H.R. 4595. A bill to redesignate a Federal building located in Washington, D.C., as the ''Sidney R. Yates Federal Building.''

S. 2523. A bill to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building.''

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Greta Joy Dicus, of Arkansas, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2003. (Reappointment)

Jeffrey S. Merrifield, of New Hampshire, to be a Member of the Nuclear Regulatory Commission for the term expiring June 30, 2002.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. DEWINE (for himself and Mr. GLENN):

S. 2541. A bill to name the Department of Veterans Affairs outpatient clinic located at 543 Taylor Avenue, Columbus, Ohio, as the ''Chalmers P. Wylie Veterans Outpatient Clinic''; to the Committee on Veterans Affairs.

By Mr. CHAFEE:

S. 2542. A bill to amend the Internal Revenue Code of 1986 to modify the tax on commercial aviation to and from airports located on sparsely populated islands; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, Mr. KERREY, and Mr. ROCKEFELLER):

S. 2543. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 2544. A bill to enhance homeownership through community development financial institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 2545. A bill to amend title XVIII of the Social Security Act to prevent sudden disruption of medicare beneficiary enrollment in Medicare+Choice plans; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. DODD, Mr. ASHCROFT, Mr. LIEBERMAN, Mr. SESSIONS, and Mr. TORRICELLI):

S. 2546. A bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBB:

S. 2547. A bill to amend title 38, United States Code, to authorize the memorialization at the columbarium at Arlington National Cemetery of veterans who have donated their remains to science, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. TORRICELLI:

S. Res. 284. A resolution expressing the sense of the Senate that the President should renegotiate the Extradition Treaty between the United States of America and the United Mexican States; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE:

S. 2542. A bill to amend the Internal Revenue Code of 1986 to modify the tax on commercial aviation to and from airports located on sparsely populated islands, to the Committee on Finance.

LEGISLATION PROVIDING RELIEF FOR CERTAIN ISLAND AIRPORTS

• Mr. CHAFEE. Mr. President, today, I am introducing legislation to provide relief to communities for whom air transportation is vital to their survival.

Last year, Congress altered the structure of the aviation excise tax which funds the Airport and Airway Trust Fund. As part of the Taxpayer Relief Act of 1997, the 10% ad valorem ticket tax was replaced with a combination ad valorem/flight segment charge. When fully phased in, the tax will consist of an ad valorem tax of 7.5% of the price of a ticket and a $3.00 charge per flight segment.

This change has dramatically increased the tax imposed on low-fare flights. A typical flight to or from the Block Island community located in my state costs $28. Prior to last year, the tax on this flight would be 10% or $2.80. When fully implemented, however, the new structure will increase the tax on the same ticket by 82%, to $5.10.

This new structure was intended to provide a user-based approach to paying for the use of FAA services and facilities. However, short distance flights between islands and a mainland make little demand on Air Traffic Control services as these flight segments do not use ATC centers, rarely use departure or arrive control, often operate under visual flight rules and usually are transferred from the departure control tower to the destination control tower.

Congress recognized that this new tax structure would adversely affect rural communities. Consequently, flights to or from rural airports are taxed at a rate of 7.5% of the ticket price, with no per passenger segment charge. For purposes of this exemption, a rural airport is one that is located at least 75 miles away from an airport with more than 100,000 passengers. Unfortunately, this restrictive definition fails to recognize the unique nature of island communities.

Island communities face transportation problems similar to those encountered by passengers from rural areas. Air and ferry transportation provide islands with a vital link to the mainland for shopping, employment, health care, and other needs. Most commercial passenger enplanements at island airports are for short-distance flights simply to get off the island. For those communities, air and ferry service maintain a delicate balance, and both are needed to meet the communities' needs for mainland access.

The current excise tax structure provides a disincentive to providing service to remote island communities. This result is contrary to Congress' intent to increase air service to these remote communities.

My legislation reinstates the prior tax structure for flights to or from an

island community. Thus, a passenger flying to or from such a community would pay a tax equal to 10% of the price of a ticket. It is important to note that this is less favorable than the exemption currently provided to passengers to and from rural airports.

I encourage my colleagues to join me as cosponsors of this important health initiative.

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. 2542

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

SECTION 1. MODIFICATION OF TAX ON AIR TRANSPORTATION TO AND FROM SPARSELY POPULATED ISLANDS.

(a) IN GENERAL.—Subsection (e) of section 4261 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) SEGMENTS TO AND FROM CERTAIN ISLAND AIRPORTS.—

''(A) EXCEPTION FROM SEGMENT TAX.—The tax imposed by subsection (b)(1) shall not apply to any domestic segment beginning or ending at an airport which is a qualified island airport for the calendar year in which such segment begins or ends (as the case may be).

''(B) QUALIFIED ISLAND AIRPORT.—For purposes of this paragraph, the term 'qualified island airport' means, with respect to any calendar year, any airport if—

''(i) such airport is located on an island having a population of 20,000 or less (determined under the 1990 decennial census), and

''(ii) during the second preceding calendar year—

''(I) there were 400,000 or fewer commercial passengers departing by air from such airport, and

''(II) 50 percent or more of the initial flight segments of such commercial passengers are 100 miles or less.

''(C) TICKET TAX.—In the case of any domestic segment beginning or ending at an airport which is a qualified island airport for the calendar year in which such segment begins or ends (as the case may be), subsection (a) shall be applied by substituting '10 percent' for '7.5 percent' and paragraph (6) shall not apply. A rule similar to the rule of paragraph (1)(C)(ii) shall apply for purposes of this subparagraph.''

(b) CONFORMING AMENDMENT.—Clause (i) of section 4261(e)(1)(C) of such Code is amended by striking ''Paragraph (5)'' and inserting ''Paragraph (6)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transportation beginning 7 days after the date of enactment of this Act.

(2) TREATMENT OF AMOUNTS PAID.—The amendments made by this section shall not apply to amounts paid before 7 days after the date of enactment of this Act.●

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, Mr. KERREY, and Mr. ROCKEFELLER):

S. 2543. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes; to the Committee on Finance.

STRUCTURED SETTLEMENT PROTECTION ACT

● Mr. CHAFEE. Mr. President, today I am introducing legislation, together with Senators BAUCUS, GRASSLEY, MOSELEY-BRAUN, ROCKEFELLER, and KERREY of Nebraska, the Structured Settlement Protection Act. Companion legislation has been introduced in the House as H.R. 4314, cosponsored by Representative CLAY SHAW and PETE STARK and a broad bipartisan group of members of the House Ways and Means Committee.

The Act protects structured settlements and the injured victims who are the recipients of the structured settlement payments from the problems caused by a growing practice known as structured settlement factoring.

Structured settlements were developed because of the pitfalls associated with the traditional lump sum form of recovery in serious personal injury cases, where all too often a lump sum meant to last for decades or even a lifetime swiftly eroded away. Structured settlements have proven to be a very valuable tool. They provide long-term financial security in the form of an assured stream of payments to persons suffering serious, often profoundly disabling, physical injuries. These payments enable the recipients to meet ongoing medical and basic living expenses without having to resort to the social safety net.

Congress has adopted special tax rules to encourage and govern the use of structured settlements in physical injury cases. By encouraging the use of structured settlements Congress sought to shield victims and their families from pressures to prematurely dissipate their recoveries. Structured settlement payments are nonassignable. This is consistent with worker's compensation payments and various types of Federal disability payments which are also non-assignable under applicable law. In each case, this is done to preserve the injured person's long-term financial security.

I am very concerned that in recent months there has been sharp growth in so-called structured settlement factoring transactions. In these transactions, companies induce injured victims to sell off future structured settlement payments for a steeply-discounted lump sum, thereby unraveling the structured settlement and the crucial long-term financial security that it provides to the injured victim. These factoring company purchases directly contravene the intent and policy of Congress in enacting the special structured settlement tax rules. The Treasury Department shares these concerns as is evidenced with a similar proposal included in the Administration's FY 1999 budget.

Court records from across the country are shedding light on factoring company purchases of structured settlement payments from gravely-injured victims. Recent cases involve a quadriplegic in Oklahoma, a paraplegic in Texas, a person in Connecticut with traumatic brain injuries dating from childhood, and an injured worker receiving workers' compensation in Mississippi. Realizing the long-term risk being inflicted on these seriously-injured individuals, this legislation has the active support of the National Spinal Cord Injury Association, as well as the American Association of Persons With Disabilities (AAPD).

The National Spinal Cord Injury Association recently wrote to the Chairman of the Finance Committee strongly supporting the legislation. They state: ''[o]ver the past 16 years, structured settlements have proven to be an ideal method for ensuring that persons with disabilities, particularly minors, are not tempted to squander resources designed to last years or even a lifetime. That is why the National Spinal Cord Injury Association is so deeply concerned about the emergence of companies that purchase payments intended for disabled persons at drastic discount. This strikes at the heart of the security Congress intended when it created structured settlements.''

It is appropriate to address this problem through the federal tax system because these purchases directly contravene the Congressional policy reflected in the structured settlement tax rules and jeopardize the long-term financial security that Congress intended to provide for the injured victim. This problem is nationwide, and it is growing rapidly.

Accordingly, the legislation we are introducing would impose substantial penalty tax on a factoring company that purchases the structured settlement payments from the injured victim. This is a penalty, not a tax increase. Similar penalties are imposed in a variety of other contexts in the Internal Revenue Code to discourage transactions that undermine Code provisions, such as private foundation prohibited transactions and greenmail. The factoring company would pay the penalty only if it engages in the transaction that Congress has sought to discourage. An exception is provided for genuine court-approved hardship cases to protect the limited instances where a true hardship warrants the sale of a structured settlement.

This bipartisan legislation, which is supported by the Treasury Department, should be enacted as soon as possible to stem this growing nationwide problem.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2543

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Structured Settlement Protection Act''.

(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. IMPOSITION OF EXCISE TAX ON PERSONS WHO ACQUIRE STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS.

Subtitle E is amended by adding at the end thereof the following new chapter:

''CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

''Sec. 5891. Structured settlement factoring transactions.

''SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 50 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

''(b) EXCEPTION FOR COURT-APPROVED HARDSHIP.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is—

''(1) otherwise permissible under applicable law, and

''(2) undertaken pursuant to the order of the relevant court or administrative authority finding that the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or the recipient's spouse or dependents render such a transfer appropriate.

''(c) DEFINITIONS.—For purposes of this section—

''(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

''(A) established by—

''(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

''(ii) agreement for the periodic payment of compensation under any workers' compensation act that is excludable from the gross income of the recipient under section 104(a)(1), and

''(B) where the periodic payments are—

''(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

''(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

''(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

''(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

''(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

''(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

''(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

''(5) RELEVANT COURT OR ADMINISTRATIVE AUTHORITY.—The term 'relevant court or administrative authority' means—

''(A) the court (or where applicable, the administrative authority) which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement, or

''(B) in the event that no action or proceeding was brought, a court (or where applicable, the administrative authority) which—

''(i) would have had jurisdiction over the claim that is the subject of the structured settlement, or

''(ii) has jurisdiction by reason of the residence of the structured settlement recipient.

''(d) COORDINATION WITH OTHER PROVISIONS.—

''(1) IN GENERAL.—In any case where the applicable requirements of sections 72, 130, and 461(h) were satisfied at the time the structured settlement was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

''(2) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to clarify the treatment in the event of a structured settlement factoring transaction of amounts received by the structured settlement recipient.''

SEC. 3. TAX INFORMATION REPORTING OBLIGATIONS.

Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

''SEC. 6050T. REPORTING REQUIREMENTS REGARDING STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

''(a) IN GENERAL.—In the case of a transfer of structured settlement payment rights in a structured settlement factoring transaction—

''(1) described in section 5891(b) and of which the person making the structured settlement payments has actual notice and knowledge, such person shall make such return and furnish such written statement to the acquirer of the structured settlement payment rights as would be applicable under the provisions of section 6041 (except as provided in subsection (c) of this section), or

''(2) subject to tax under section 5891(a) and of which the person making the structured settlement payments has actual notice and knowledge, such person shall make such return and furnish such written statement to the acquirer of the structured settlement payment rights at such time, and in such manner and form, as the Secretary shall by regulations prescribe.

''(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply in lieu of any other provisions of this part to establish the reporting obligations of the person making the structured settlement payments in the event of a structured settlement factoring transaction. The provisions of section 3405 regarding withholding shall not apply to the person making the structured settlement payments in the event of a structured settlement factoring transaction.

''(c) DEFINITION.—For purposes of this section, the term 'acquirer of the structured settlement payment rights' shall include any person described in section 7701(a)(1).''

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall be effective with respect to structured settlement factoring transactions (as defined in section 5891(c)(3) of the Internal Revenue Code of 1986, as added by this Act) occurring after the date of enactment of this Act.

SUMMARY OF THE STRUCTURED SETTLEMENT PROTECTION ACT

1. Stringent excise tax on persons who acquire structured settlement payments in factoring transactions

In its analysis of the Administration's proposal, the Joint Tax Committee notes the potential concern that in some cases the imposition of a 20-percent excise tax may result in the factoring company passing the tax along by reducing even further the already-heavily discounted lump sum paid to the injured victim for his or her structured settlement payments. The Joint Committee notes that ''[o]ne possible response to the concern relating to excessively discounted payments might be to raise the excise tax to a level that is certain to stop the transfers (perhaps 100 percent). . .'' (Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS–4–98) (February 4, 1998), p. 223).

Factoring company purchases of structured settlement payments so directly subvert the Congressional policy underlying structured settlements and raise such serious concerns for structured settlements and the injured victims that it is appropriate to impose a more stringent excise tax against the amount of the discount reflected in the factoring transaction (subject to a limited exception described below for genuine court-approved hardships). Accordingly, the Act would impose on the factoring company that acquires structured settlement payments directly or indirectly from the injured victim an excise tax equal to 50 percent of the difference between (i) the total amount of the structured settlement payments purchased by the factoring company, and (ii) the heavily-discounted lump sum paid by the factoring company to the injured victim.

Similar to the stuff excise taxes imposed on prohibited transactions in the private foundation and pension contexts—which can range as high as 100 to 200 percent—this stringent excise tax is necessary to address the very serious public policy concerns raised by structured settlement factoring transactions.

Unlike the Administration's proposal, the excise tax imposed on the factoring company under this legislation would use a more stringent tax rate of 50 percent and would apply it to the excess of the total amount of the structured settlement payments purchased by the factoring company over the heavily-discounted lump sum paid to the injured victim.

The excise tax under the Act would apply to the factoring or structured settlements in tort cases and in workers' compensation. A structured settlement factoring transaction subject to the excise tax is broadly defined under the Act as a transfer of structured settlement payment rights (including portions of payments) made for consideration by means of sale, assignment, pledge, or other form of alienation or encumbrance for consideration.

2. Exception from excise tax for genuine, court-approved hardship

The stringent excise tax would be coupled with a limited exception for genuine, court-approved financial hardship situations. Drawing upon the hardship standard enunciated in the Treasury proposal, the excise tax would apply to factoring companies in

all structured settlement factoring transactions except those in which the transfer of structured settlement payment rights (1) is otherwise permissible under applicable Federal and State law and (2) is undertaken pursuant to the order of a court (or where applicable, an administrative authority) finding that the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or his or her spouse or dependents render such a transfer appropriate.

This exception is intended to apply to the limited number of cases in which a genuinely extraordinary, unanticipated, and imminent hardship has actually arisen and been demonstrated to the satisfaction of a court (e.g., serious medical emergency for a family member). In addition, as a threshold matter, the transfer of structured settlement payment rights must be permissible under applicable law, including State law. The hardship exception under this legislation is not intended to override any Federal or State law prohibition of restriction on the transfer of the payment rights or to authorize factoring of payment rights that are not transferable under Federal or State law. For example, the States in general prohibit the factoring of workers' compensation benefits. In addition, State laws often prohibit or directly restrict transfers of recoveries in various types of personal injury cases, such as wrongful death and medical malpractice.

The relevant court for purposes of the hardship exception would be the original court which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement. In the event that no action had been brought prior to the settlement, the relevant court would be that which would have had jurisdiction over the claim that is the subject of the structured settlement or which would have jurisdiction by reason of the residence of the structured settlement recipient. In those limited instances in which an administrative authority adjudicates, resolves, or otherwise has primary jurisdiction over the claim (e.g., the Vaccine Injury Compensation Trust Fund), the hardship matter would be the province of that applicable administrative authority.

3. Need to protect tax treatment of original structured settlement

In the limited instances of extraordinary and unanticipated hardship determined by court order to warrant relief under the hardship exception, adverse tax consequences should not be visited upon the other parties to the original structured settlement. In addition, despite the anti-assignment provisions included in the structured settlement agreements and the applicability of a stringent excise tax on the factoring company, there may be a limited number of non-hardship factoring transactions that still go forward. If the structured settlement tax rules under I.R.C. Sections 72, 130 and 461(h) had been satisfied at the time of the structured settlement, the original tax treatment of the other parties to the settlement—i.e., the settling defendant (and its liability insurer) and the Code section 130 assignee—should not be jeopardized by a third party transaction that occurs years later and likely unbeknownst to these other parties to the original settlement.

Accordingly, the Act would clarify that if the structured settlement tax rules under I.R.C. Sections 72, 130, and 461(h) had been satisfied at the time of the structured settlement, the section 130 exclusion of the assignee, the section 461(h) deduction of the settling defendant, and the Code section 72 status of the annuity being used to fund the periodic payments would remain undisturbed. That is, the assignee's exclusion of income under Code section 130 arising from satisfaction of all of the section 130 qualified assignment rules at the time the structured settlement was entered into years earlier would not be challenged. Similarly, the settling defendant's deduction under Code section 461(h) of the amount paid to the assignee to assume the liability would not be challenged. Finally, the status under Code section 72 of the annuity being used to fund the periodic payments would remain undisturbed.

The Act provides the Secretary of the Treasury with regulatory authority to clarify the treatment of a structured settlement recipient who engages in a factoring transaction. This regulatory authority is provided to enable Treasury to address issues raised regarding the treatment of future periodic payments received by the structured settlement recipient where only a portion of the payments has been factored away, the treatment of the lump sum received in a factoring transaction qualifying for the hardship exception, and the treatment of the lump sum received in the non-hardship situation. It is intended that where the requirements of section 130 are satisfied at the time the structured settlement is entered into, the existence of the hardship exception to the excise tax under the Act shall not be construed as giving rise to any concern over constructive receipt of income by the injured victim at the time of the structured settlement.

4. Tax information reporting obligations with respect to a structured settlement factoring transaction

The Act would clarify the tax reporting obligations of the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs. The Act adopts a new section of the Code that is intended to govern the payor's tax reporting obligations in the event of a factoring transaction.

In the case of a court-approved transfer of structured settlement payments of which the person making the payments has actual notice and knowledge, the fact of the transfer and the identity of the acquirer clearly will be known. Accordingly, it is appropriate for the person making the structured settlement payments to make such return and to furnish such tax information statement to the new recipient of the payments as would be applicable under the annuity information reporting procedures of Code section 6041 (e.g., form 1099–R), because the payor will have the information necessary to make such return and to furnish such statement.

Despite the anti-assignment restrictions applicable to structured settlements and the applicability of a stringent excise tax, there may be a limited number of non-hardship factoring transactions that still go forward. In these instances, if the person making the structured settlement payments has actual notice and knowledge that a structured settlement factoring transaction has taken place, the payor would be obligated to make such return and to furnish such written statement to the payment recipient at such time, and in such manner and form, as the Secretary of the Treasury shall by regulations provide. In these instances, the payor may have incomplete information regarding the factoring transaction, and hence a tailored reporting procedure under Treasury regulations is necessary.

The person making the structured settlement payments would not be subject to any tax reporting obligation if that person lacked such actual notice and knowledge of the factoring transaction. Under the Act, for purposes of the reporting obligations, the term ''acquirer of the structured settlement payment rights'' would be broadly defined to include an individual, trust, estate, partnership, company, or corporation.

The provisions of section 3405 regarding withholding would not apply to the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs.

5. Effective date

The provisions of the Act would be effective with respect to structured settlement factoring transactions occurring after the date of enactment of the Act.

By Mr. FAIRCLOTH:

S. 2544. A bill to enhance homeownership through community development financial institutions; to the Committee on Banking, Housing, and Urban Affairs.

THE COMMUNITY DEVELOPMENT AND HOMEOWNERSHIP ACT OF 1998

Mr. FAIRCLOTH. Mr. President, today I introduce legislation that will allow Community Development Financial Institutions (CDFIs) and their affiliates to borrow from the Home Loan Bank System.

Since the 1930's the Home Loan Bank System has provided the nation's savings institutions with advances that can be used to make home mortgages. In 1989, the System was opened up to banks and credit unions. The Home Loan Bank System is critical for homeownership in the U.S. The Bank System has nearly 7,000 members and has outstanding nearly $181 billion in housing advances.

The membership of the system is reserved for insured institutions. My legislation, however, would permit Community Development Financial Institutions to have ''non-member'' borrowing status. This would allow approximately 200 CDFIs to borrow from the System, with the approval of their regional Home Loan Bank and on the same terms as all other members.

Mr. President, this is a small, but important step toward creating more homeownership opportunities, particularly for low income individuals. CDFIs were created for the purpose of reaching out to provide housing and economic opportunity in distressed areas. My home state of North Carolina is home to more CDFIs than any other state in the United States, except for California, New York and Illinois. North Carolina has been a leader in finding new and different ways to foster economic growth and home ownership.

Very simply, this legislation will allow CDFIs to have a source of credit to make home loans. These loans will have to meet the normal collateral requirements of any other institution that belongs to the Home Loan Bank System. Because CDFIs are chartered to target distressed communities, however, this could be an important source of credit for homeownership that might not otherwise exist. We know from experience that once an individual has a home—he or she has a stake in the community. This can help turn distressed communities into thriving communities. We have made great

progress in the last few years. Welfare rolls are at their lowest point since 1969. Homeownership is at its highest level ever. We are no longer running our federal budgets in the red. Now we can begin to take new and creative steps to continue promoting economic growth and opportunity.

I would urge my colleagues to cosponsor and support this legislation.

By Mr. HATCH (for himself, Mr. DODD, Mr. ASHCROFT, Mr. LIEBERMAN, Mr. SESSIONS, and Mr. TORRICELLI):

S. 2546. A bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes; to the Committee on the Judiciary.

THE FAIRNESS IN ASBESTOS COMPENSATION ACT OF 1998

Mr. HATCH. Mr. President, I am pleased to introduce today the ''Fairness in Asbestos Compensation Act of 1998''. With me, sponsoring this important legislation are: Senator DODD, Senator ASCROFT, Senator LIEBERMAN, Senator SESSIONS and Senator TORRICELLI.

Asbestos litigation is a national crisis. Today, state and federal courts are overwhelmed by up to 150,000 asbestos lawsuits. Over 30,000 new suits are added to the dockets annually. Unfortunately, those that are truly sick with asbestosis and various asbestos-related cancers and illnesses spend years in court before receiving any compensation, and then lose 60% of that compensation to attorneys' fees and other costs. The best available data show that on average asbestos suits take 31 months to reach resolution, compared to 18 months for other product liability suits. One cause of this extraordinary delay in compensation is the large number of lawsuits filed by those who, without any symptoms or signs of asbestos-related illness, bring suits for future medical monitoring and fear of cancer.

In a lottery-like system, juries award enormous compensation and outrageous punitive damages to non-impaired plaintiffs, while others in identical cases or with actual illness receive little or no compensation. Excessive Damage awards, along with the transaction costs associated with the lawsuits, deplete the financial resources of defendant companies and lead them to file for bankruptcy. As legal and financial resources are tied up and exhausted, it is increasingly unclear whether those who are truly inflicted with asbestos-caused diseases will be able to recover anything at all in the years ahead.

Courts have tried unsuccessfully to cope with and alleviate the problems associated with the more than half a million asbestos cases. The major parties involved attempted to compromise on a fair and equitable solution that included prompt compensation. The Third Circuit Court of Appeals overturned one such compromise, known as the Amchem or Georgine agreement, on civil procedural rule grounds but found the settlement to be ''arguably a brilliant partial solution.'' Justice Ruth Bader Ginsburg, writing for the Supreme Court, upheld the Appellate decision and stated, ''[t]he argument is sensibly made that a nationwide administrative claims processing regime would provide the most secure, fair and efficient means of compensating victims of asbestos exposure. Congress, however, has not adopted such a solution.'' The Court accurately recognized that Congress is the most appropriate body to resolve the asbestos crisis. That is what we intend to do by introducing this important legislation.

Mr. President, by virtue of the hundreds of thousands of cases that already have been litigated in the court system, the legal and scientific issues relating to asbestos litigation have been thoroughly explored and punishments have been exacted on defendant companies. Recognizing the potential dangers of asbestos exposure, we have seen asbestos consumption in the United States drop to historic lows since peak consumption in the early 1970's. These factors along with the recent court decisions demonstrate that the asbestos litigation issue is now ripe for a legislative solution.

The bill that I introduce today will correct the asbestos litigation crisis problems. It is crafted to reflect as closely as possible the original settlement agreed to by the involved parties in the Amchem settlement. This bill will eliminate the asbestos litigation burden in the courts, get fair compensation for those who currently are sick, and enable the businesses to manage their liabilities in order to ensure that compensation will be available for future claimants. It is important to note that no tax-payer money will fund this bill. It will be entirely funded by asbestos defendants.

Specifically, the bill reforms asbestos litigation in the judicial system by establishing a national claims facility to provide fair and prompt compensation for persons suffering from asbestos-associated illnesses. Eligibility for compensation will be determined by objective predetermined criteria. The legislation provides for alternative dispute resolution and allows plaintiffs who go through the system without resolving their claims through the claims facility to use the tort system. Again no taxpayer dollars will fund this facility or any part of this program.

I have carefully crafted this legislation so that it is at least as favorable—and, in many cases, more favorable—to claimants as the original Amchem settlement. As this bill makes its way through the legislative process, I look forward to working with my colleagues to further refine the language in order to achieve the maximum public benefit from this legislation.

Mr. DODD: Mr. President, I am pleased to join with my colleague, Senator HATCH, to introduce the ''Fairness in Asbestos Compensation Act of 1998.'' This legislation would expedite the provision of financial compensation to the victims of asbestos exposure by establishing a nationwide administrative system to hear and adjudicate their claims.

Mr. President, millions of American workers have been exposed to asbestos on the job. Tragically, many have contracted asbestos-related illness, which can be devastating and deadly. Others will surely become similarly afflicted. These individuals—who have or will become terribly ill due to no fault to their own—deserve swift and fair compensation to help meet the costs of health care, lost income, and other economic and non-economic losses.

Unfortunately, many victims of asbestos exposure are not receiving the efficient and just treatment they deserve from our legal system. Indeed, it can be said that the current asbestos litigation system is in a state of crisis. Today, more than 150,000 lawsuits clog the state and federal courts. In 1996 alone, more than 36,000 new suits were filed. Those who have been injured by asbestos exposure must often wait years for compensation. And when that compensation finally arrives, it is often eaten up by attorneys' fees and other transaction costs.

In the early 1990's, an effort was made to improve the management of federal asbestos litigation. Cases were consolidated, and a settlement to resolve them administratively was agreed to between defendant companies and plaintiffs' attorneys. This settlement also obtained the backing of the Building and Construction Trades Union of the AFL–CIO. Regrettably, the settlement was overturned by the Third Circuit Court of Appeals in 1996. Though the Court termed the settlement ''arguably a brilliant partial solution,'' it found that the class of people created by the settlement—namely, those exposed to asbestos—was too large and varied to be certified pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Supreme Court affirmed that decision. In its decision, the Court effectively invited the Congress to provide for the existence of such a settlement as a fair and efficient way to resolve asbestos litigation claims.

Hence this bill. In simple terms, it codifies the settlement reached between companies and the representatives of workers who were exposed to asbestos on the job. It would establish a body to review claims by those who believe that they have become ill due to exposure to asbestos. It would provide workers with mediation and binding arbitration to promote the fair and swift settlement of their claims. It would allow plaintiffs to seek additional compensation if their non-malignant disease later developed into cancer. And it would limit attorneys' fees so as to ensure that a claimant receives a just portion of any settlement amount.

All in all, Mr. President, this is a good bill. I commend Senator HATCH for his leadership in crafting it. However, it is not a perfect bill. My office has received comments on the bill from representatives of a number of parties affected by asbestos litigation. I hope and expect that those comments will be given the consideration that they deserve by the Judiciary Committee and the full Senate as this legislation moves forward, as I hope it will early in the 106th Congress.

Mr. ASHCROFT. Mr. President, I rise today as a co-sponsor of the Fairness in Asbestos Compensation Act of 1998 to speak in favor of this important, bipartisan measure. I support this bill for a simple reason—it makes sense. The problems caused by the manufacture and use of asbestos are well-documented. Although some companies initially denied responsibility and fought suits to recover for asbestos-related injuries in court, the injuries associated with asbestos and the fact that manufacturers are liable for those injuries are now well-established.

The courts—both state and federal—have done an admirable job of establishing the facts and legal rules concerning asbestos. That is a job the courts do well. However, now that the basic facts and liability rules have been established, the courts are being asked simply to process claims. That is not a job the courts do particularly well. The rules governing court actions give parties rights to dispute facts that have been conclusively established in other proceedings. All the while the meter is running for the lawyers on both sides. Dollars that could go to compensate deserving victims, instead go to lawyers and court costs.

In the asbestos context, these problems are exacerbated by the finite amount of resources available to compensate victims and the fact that legal rules concerning both punitive damages and what constitutes a sufficient injury to bring suit make for jury awards that do not correspond to the seriousness of the injury. Someone filing suit because of a preliminary manifestation of a minor injury, i.e., pleural thickening, which may never lead to more severe symptoms, may receive more compensation than another person with more serious asbestos-related injuries. None of this is to suggest that it is somehow wrong for plaintiffs with a minor injury to file suit. To the contrary, some state rules concerning when injury occurs obligate plaintiffs to file suit or risk having their suit dismissed as time-barred. What is more, in light of the finite number of remaining solvent asbestos defendants, potential plaintiffs have every incentive to file suit as soon as legally permissible.

The Fairness in Asbestos Compensation Act of 1998 attempts to address these problems by establishing an administrative claims systems that aims to compensate victims of asbestos rationally and efficiently. The Act accomplishes this goal by ensuring that more serious injuries receive greater awards, by securing a compensation fund so that victims whose conditions are not yet manifest can recover in the future, and by eliminating the statute of limitations and injury rules that force plaintiffs into court prematurely. Although I wish I could claim some pride of authorship in these mechanisms, these basic features were all part of a proposed settlement worked out by representatives of both plaintiffs and defendants.

At the end of last term, the Supreme Court rejected the proposed global asbestos settlement in Amchem Products versus Windsor. The District Court had certified a settlement class under Rule 23 that included extensive medical and compensation criteria that both plaintiffs and defendants had accepted. The Supreme Court ruled that this type of global, nationwide settlement of tort claims brought under fifty different state laws could not be sustained under Rule 23. The Court recognized that such a global settlement would conserve judicial resources and likely would promote the public interest. Nonetheless, the Court concluded that Rule 23 was too thin a reed to support this massive settlement, and that if the parties desired a nationwide settlement they needed to direct their attention to the Congress, rather than the Courts.

I believe the Supreme Court was right on both counts—the proposed settlement criteria were in the public interest, but the proposed class simply could not be sustained under Rule 23. The Rules Enabling Act and the inherent limits on the power of federal courts preclude an interpretation of Rule 23 that would result in a federal court overriding or homogenizing varying state laws. However, as the Supreme Court pointed out, Congress has the power to do directly what the courts lack the power to do through a strained interpretation of Rule 23.

This bill takes up the challenge of the Supreme Court and addresses the tragic problem of asbestos. The bill incorporates the medical and compensation criteria agreed to by the parties in the Amchem settlement and employs them as the basis for a legislative settlement. In the simplest terms, the legislation proposes an administrative claims process to compensate individuals injured by asbestos as a substitute for the tort system (although individuals retain an ability to opt-in to the tort system at the back end). The net effect of this legislation should be to funnel a greater percentage of the pool of limited resources to injured plaintiffs, rather than to lawyers for plaintiffs and defendants.

I want to be clear, however, that I am not here to suggest that this is a perfect bill. This bill represents a complex solution to a complex problem. A number of groups will be affected by this legislation, and it may be necessary to make changes to make sure that no one is unfairly disadvantaged by this legislation. But that said, I am confident that we can make any needed changes. We have a bipartisan group of Senators who have agreed to cosponsor this legislation, and the bill represents a sufficient improvement in efficiency over the existing litigation quagmire that there should be ample room to work out any differences.

Finally, let me also note that this bill also plays a minor, but important role in preserving a proper balance in the separation of powers. I have been a strong and consistent critic of judicial activism. Judges who make legal rules out of whole cloth in the absence of constitutional or statutory text damage the standing of the judiciary and our constitutional structure. On the other hand, when judges issue opinions in which they recognize that the outcome sought by the parties might well be in the public interest, but nonetheless is not supported by the existing law, they reinforce the proper, limited role of the judiciary. Too often, federal judges are tempted to reach the result they favor as a policy matter without regard to the law. When judges succumb to that temptation, they are justly criticized. But when they resist that temptation, their self-restraint should be recognized and applauded. The Court in Amchem rightly recognized a problem that the judiciary acting alone could not solve. By offering a legislative solution to that problem the bill provides the proper incentives for courts to be restrained and reinforces the proper roles of Congress and the judiciary.

In short, this bill provides a proper legislative solution to the asbestos litigation problem. It ensures that in an area in which extensive litigation has already established facts and assigned responsibility, scarce dollars compensate victims, not lawyers. I want to thank Chairman HATCH for his leadership on this issue and to thank my cosponsors for their work on the bill. I look forward to working with them to ensure final passage of this legislation. The courts have completed their proper role in ascertaining facts and liability. It is time for Congress to step in to provide a better mechanism to direct scarce resources to deserving victims.

Mr. LIEBERMAN. Mr. President, I want to thank Senator HATCH for introducing this important legislation, which I am pleased to co-sponsor with him and Senators DODD, ASHCROFT, SESSIONS, and TORRICELLI. As Senator HATCH already has explained, this bill addresses an issue—asbestos litigation—that has clogged the federal and state courts for some time now. Due to the huge number of these cases and the massive verdicts they often yield, it is unclear whether those who have been exposed to asbestos, but have not yet become sick, will be able to gain full compensation for their injuries should they become sick in the future.

To address these concerns, and respond to calls from the courts and others for creating an alternative mechanism for resolving these disputes outside of the court system, a settlement was reached several years ago that, among other things, would have created an alternative claims resolution system for dealing with certain asbestos claims. Unfortunately, despite the desire of representatives of the interested parties—both victims and defendants—to enter into this settlement, and despite the trial court's belief that the settlement was fair, the Supreme Court voided it. The Supreme Court acted, however, not because it believed that the settlement was in any respect unfair, but instead because it concluded that only Congress has the authority to sanction such a settlement.

That is the goal of this goal—for Congress to step up to the plate and authorize a solution to the asbestos litigation problem that will ensure that all those who become sick from asbestos are fairly and efficiently compensated, as contemplated by the parties' earlier settlement. Because I believe this is a problem crying out for Congressional action, and because I believe the settlement reached by the parties was a fair one, I am supporting the bill.

With that said, I understand that representatives of some of those exposed to asbestos who supported the settlement are not currently supporting this proposed legislation. Because I firmly believe that this should go forward as a consensus bill, I remain open to supporting any reasonable changes that would be required to gain the support of all parties with an interest in asbestos litigation. I am hopeful that we can gain their support and move forward with and pass this legislation.

By Mr. ROBB:

S. 2547. A bill to amend title 38, United States Code, to authorize the memorialization at the columbarium at Arlington National Cemetery of veterans who have donated their remains to science, and for other purposes; to the Committee on Veterans' Affairs.

TO MEMORIALIZE VETERANS AT ARLINGTON NATIONAL CEMETERY WHO DONATE THEIR ORGANS

● Mr. ROBB. Mr. President, several months ago, one of my constituents, Ms. Llewellyn Hedgbeth of Arlington, Virginia, contacted my office to request my intervention in a matter which has brought considerable anguish and frustration to her family.

It so happened that Ms. Hedgbeth's father, Mr. Roger A. Hedgbeth, Sr., a decorated veteran of World War II, and a career civil servant, had recently passed away. Before his death, however, he made two simple requests: one, that his body be donated to science, and two, that his ashes be placed at Arlington National Cemetery. His widow, now 71, honored the first of those wishes. But in honoring the one, it seemed that the second was precluded.

The Hedgbeths learned that due to various legal concerns, no ashes of organ donors who donate their bodies to science are returned to the respective families of these donors. This situation presented an insurmountable obstacle for the Hedgbeth family who were informed by a regretful staff at Arlington National Cemetery, that current regulations prohibit memorializing veterans in the Columbarium unless their remains were actually inurned there.

While I can appreciate that limited space at Arlington has necessitated adherence to strict guidelines for burial and memorialization, I cannot see the virtue in denying appropriate recognition for an entitled veteran simply because he has donated his remains to science. In fact, I would like to encourage more veterans to do just that.

All of us recognize the great need for viable remains for both transplantation and for medical study. Mr. Roger Hedgbeth and other veterans who make this courageous commitment should be suitably recognized and their loved ones should know that a grateful nation has made a place for them at one of our country's most sacred memorials.

With that said, I submit this bill which seeks to modify current regulations to allow otherwise qualified veterans, who have donated their remains to science, to be memorialized at the Columbarium in Arlington National Cemetery, not withstanding the absence of their cremated remains.

Mr. President, I salute these veterans and their devoted families, and 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. 2547

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

SECTION 1. MEMORIALIZATION AT COLUMBARIUM AT ARLINGTON NATIONAL CEMETERY OF VETERANS WHO HAVE DONATED THEIR REMAINS TO SCIENCE.

(a) AUTHORITY TO MEMORIALIZE.—(1) Chapter 24 of title 38, United States Code, is amended by adding at the end the following:

"§ 2412. Arlington National Cemetery: memorialization at columbarium of veterans who have donated their remains to science

''The Secretary of the Army may honor, by marker or other appropriate means at the columbarium at Arlington National Cemetery, the memory of any veteran eligible for inurnment in the columbarium whose cremated remains cannot be inurned in the columbarium as a result of the donation of the veteran's organs or remains for medical or scientific purposes.''.

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following:

''2412. Arlington National Cemetery: memorialization at columbarium of veterans who have donated their remains to science.''.

(b) APPLICABILITY.—Section 2412 of title 38, United States Code, as added by subsection (a), shall apply to veterans who die on or after January 1, 1996.●

ADDITIONAL COSPONSORS

S. 982

At the request of Mr. MCCONNELL, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 982, a bill to provide for the protection of the flag of the United States and free speech, and for other purposes.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1855

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1855, a bill to require the Occupational Safety and Health Administration to recognize that electronic forms of providing MSDSs provide the same level of access to information as paper copies.

S. 1868

At the request of Mr. HAGEL, his name was withdrawn as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 2217

At the request of Mr. FRIST, the names of the Senator from Georgia (Mr. COVERDELL) and the Senator from Virginia (Mr. ROBB) were added as cosponsors of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2230

At the request of Mr. CHAFEE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2230, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity tax credit for 3 additional years.

S. 2283

At the request of Mr. DEWINE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2283, a bill to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

S. 2296

At the request of Mr. MACK, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2296, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which

may be treated as exempt foreign trade income.

S. 2358

At the request of Mr. ROCKEFELLER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

S. 2364

At the request of Mr. CHAFEE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2418

At the request of Mr. JEFFORDS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2418, a bill to establish rural opportunity communities, and for other purposes.

S. 2426

At the request of Mr. COVERDELL, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2426, a bill to amend the Internal Revenue Code of 1986 to provide a 2-month extension for the due date for filing a tax return for any member of a uniformed service on a tour of duty outside the United States for a period which includes the normal due date for such filing.

S. 2453

At the request of Mr. ROTH, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 2453, a bill to amend the Internal Revenue Code of 1986 to extend the credit for producing electricity from certain renewable resources.

S. 2473

At the request of Mr. BREAUX, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2473, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for meal and entertainment expenses of small businesses.

S. 2494

At the request of Mr. MCCAIN, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 2494, a bill to amend the Communications Act of 1934 (47 U.S.C. 151 et seq.) to enhance the ability of direct broadcast satellite and other multichannel video providers to compete effectively with cable television systems, and for other purposes.

S. 2522

At the request of Mr. DEWINE, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2522, a bill to support enhanced drug interdiction efforts in the major transit countries and support a comprehensive supply eradication and crop substitution program in source countries.

SENATE JOINT RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of Senate Joint Resolution 56, a joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

SENATE JOINT RESOLUTION 59

At the request of Mr. GRAMM, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of Senate Joint Resolution 59, a joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance.

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. SPECTER, the names of the Senator from Alabama (Mr. SHELBY), the Senator from Ohio (Mr. DEWINE), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of Congress that the President should take all necessary measures to respond to the increase in steel imports resulting from the financial crises in Asia, the independent States of the former Soviet Union, Russia, and other areas of the world, and for other purposes.

SENATE CONCURRENT RESOLUTION 122

At the request of Mr. LEVIN, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Virginia (Mr. WARNER), the Senator from Delaware (Mr. ROTH), the Senator from California (Mrs. FEINSTEIN), the Senator from Ohio (Mr. GLENN), the Senator from New York (Mr. D'AMATO), the Senator from Michigan (Mr. ABRAHAM), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Maryland (Mr. SARBANES), the Senator from Ohio (Mr. DEWINE), the Senator from Kansas (Mr. BROWNBACK), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of Senate Concurrent Resolution 122, a concurrent resolution expressing the sense of Congress that the 65th anniversary of the Ukrainian Famine of 1932–1933 should serve as a reminder of the brutality of the government of the former Soviet Union's repressive policies toward the Ukrainian people.

SENATE CONCURRENT RESOLUTION 123

At the request of Mr. DASCHLE, his name was added as a cosponsor of Senate Concurrent Resolution 123, a concurrent resolution to express the sense of the Congress regarding the policy of the Forest Service toward recreational shooting and archery ranges on Federal land.

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the names of the Senator from Michigan (Mr. ABRAHAM), the Senator from Hawaii (Mr. AKAKA), the Senator from Colorado (Mr. ALLARD), the Senator from Louisiana (Mr. BREAUX), the Senator from Arkansas (Mr. BUMPERS), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Maine (Ms. COLLINS), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from New Hampshire (Mr. GREGG), the Senator from Idaho (Mr. KEMPTHORNE), the Senator from Florida (Mr. MACK), the Senator from Oklahoma (Mr. NICKLES), the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS), the Senator from Oregon (Mr. SMITH), the Senator from Maine (Ms. SNOWE), and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as ''National Inhalant Abuse Awareness Day.''

SENATE RESOLUTION 260

At the request of Mr. GRAHAM, the names of the Senator from Florida (Mr. MACK), the Senator from Louisiana (Mr. BREAUX), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Virginia (Mr. ROBB), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from South Dakota (Mr. JOHNSON), the Senator from Minnesota (Mr. WELLSTONE), the Senator from Nebraska (Mr. KERREY), and the Senator from Nevada (Mr. BRYAN) were added as cosponsors of Senate Resolution 260, a resolution expressing the sense of the Senate that October 11, 1998, should be designated as ''National Children's Day.''

SENATE RESOLUTION 274

At the request of Mr. FORD, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of Senate Resolution 274, a resolution to express the sense of the Senate that the Louisville Festival of Faiths should be commended and should serve as model for similar festivals in other communities throughout the United States.

SENATE RESOLUTION 284—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD RENEGOTIATE THE EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES

Mr. TORRICELLI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 284

Whereas under the Extradition Treaty Between the United States of America and the

United Mexican States, Mexico refused to extradite murder suspect and U.S. citizen Jose Luis Del Toro to the United States until the State of Florida agreed not to exercise its right to seek capital punishment in its criminal prosecution of him;

Whereas under the Extradition Treaty Mexico has refused to extradite other suspects of capital crimes; and

Whereas the Extradition Treaty interferes with the justice system of the United States and encourages criminals to flee to Mexico: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE REGARDING THE RENEGOTIATION OF THE U.S.-MEXICAN EXTRADITION TREATY.

It is the sense of the Senate that—

(1) the President should renegotiate the Extradition Treaty Between the United States of America and the United Mexican States, signed in Mexico City in 1978 (31 U.S.T. 5059), so that the possibility of capital punishment will not interfere with the timely extradition of criminal suspects from Mexico to the United States.

AMENDMENTS SUBMITTED

INTERNET TAX FREEDOM ACT

BUMPERS (AND GRAHAM) AMENDMENT NO. 3677

Mr. BUMPERS (for himself and Mr. GRAHAM) proposed an amendment to the bill (S. 442) to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

At the appropriate place, insert the following new title:

TITLE ___COLLECTION OF STATE AND LOCAL SALES TAXES ON OUT-OF-STATE SALES

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Consumer and Main Street Protection Act of 1998''.

SEC. ___02. FINDINGS.

Congress finds that—

(1) merchandise purchased from out-of-State firms is subject to State and local sales taxes in the same manner as merchandise purchased from in-State firms,

(2) State and local governments generally are unable to compel out-of-State firms to collect and remit such taxes, and consequently, many out-of-State firms choose not to collect State and local taxes on merchandise delivered across State lines,

(3) moreover, many out-of-State firms fail to inform their customers that such taxes exist, with some firms even falsely claiming that merchandise purchased out-of-State is tax-free, and consequently, many consumers unknowingly incur tax liabilities, including interest and penalty charges,

(4) Congress has a duty to protect consumers from explicit or implicit misrepresentations of State and local sales tax obligations,

(5) small businesses, which are compelled to collect State and local sales taxes, are subject to unfair competition when out-of-State firms cannot be compelled to collect and remit such taxes on their sales to residents of the State,

(6) State and local governments provide a number of resources to out-of-State firms including government services relating to disposal of tons of catalogs, mail delivery, communications, and bank and court systems,

(7) the inability of State and local governments to require out-of-State firms to collect and remit sales taxes deprives State and local governments of needed revenue and forces such State and local governments to raise taxes on taxpayers, including consumers and small businesses, in such State,

(8) the Supreme Court ruled in Quill Corporation v. North Dakota, 112 S. Ct. 1904 (1992) that the due process clause of the Constitution does not prohibit a State government from imposing personal jurisdiction and tax obligations on out-of-State firms that purposefully solicit sales from residents therein, and that the Congress has the power to authorize State governments to require out-of-State firms to collect State and local sales taxes, and

(9) as a matter of federalism, the Federal Government has a duty to assist State and local governments in collecting sales taxes on sales from out-of-State firms.

SEC. ___03. AUTHORITY FOR COLLECTION OF SALES TAX.

(a) IN GENERAL.—A State is authorized to require a person who is subject to the personal jurisdiction of the State to collect and remit a State sales tax, a local sales tax, or both, with respect to tangible personal property if—

(1) the destination of the tangible personal property is in the State,

(2) during the 1-year period ending on September 30 of the calendar year preceding the calendar year in which the taxable event occurs, the person has gross receipts from sales of such tangible personal property—

(A) in the United States exceeding $3,000,000, or

(B) in the State exceeding $100,000, and

(3) the State, on behalf of its local jurisdictions, collects and administers all local sales taxes imposed pursuant to this title.

(b) STATES MUST COLLECT LOCAL SALES TAXES.—Except as provided in section ___04(d), a State in which both State and local sales taxes are imposed may not require State sales taxes to be collected and remitted under subsection (a) unless the State also requires the local sales taxes to be collected and remitted under subsection (a).

(c) AGGREGATION RULES.—All persons that would be treated as a single employer under section 52 (a) or (b) of the Internal Revenue Code of 1986 shall be treated as one person for purposes of subsection (a).

(d) DESTINATION.—For purposes of subsection (a), the destination of tangible personal property is the State or local jurisdiction which is the final location to which the seller ships or delivers the property, or to which the seller causes the property to be shipped or delivered, regardless of the means of shipment or delivery or the location of the buyer.

SEC. ___04. TREATMENT OF LOCAL SALES TAXES.

(a) UNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Sales taxes imposed by local jurisdictions of a State shall be deemed to be uniform for purposes of this title and shall be collected under this title in the same manner as State sales taxes if—

(A) such local sales taxes are imposed at the same rate and on identical transactions in all geographic areas in the State, and

(B) such local sales taxes imposed on sales by out-of-State persons are collected and administered by the State.

(2) APPLICATION TO BORDER JURISDICTION TAX RATES.—A State shall not be treated as failing to meet the requirements of paragraph (1)(A) if, with respect to a local jurisdiction which borders on another State, such State or local jurisdiction—

(A) either reduces or increases the local sales tax in order to achieve a rate of tax equal to that imposed by the bordering State on identical transactions, or

(B) exempts from the tax transactions which are exempt from tax in the bordering State.

(b) NONUNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), nonuniform local sales taxes required to be collected pursuant to this title shall be collected under one of the options provided under paragraph (2).

(2) ELECTION.—For purposes of paragraph (1), any person required under authority of this title to collect nonuniform local sales taxes shall elect to collect either—

(A) all nonuniform local sales taxes applicable to transactions in the State, or

(B) a fee (at the rate determined under paragraph (3)) which shall be in lieu of the nonuniform local sales taxes described in subparagraph (A).

Such election shall require the person to use the method elected for all transactions in the State while the election is in effect.

(3) RATE OF IN-LIEU FEE.—For purposes of paragraph (2)(B), the rate of the in-lieu fee for any calendar year shall be an amount equal to the product of—

(A) the amount determined by dividing total nonuniform local sales tax revenues collected in the State for the most recently completed State fiscal year for which data is available by total State sales tax revenues for the same year, and

(B) the State sales tax rate.

Such amount shall be rounded to the nearest 0.25 percent.

(4) NONUNIFORM LOCAL SALES TAXES.—For purposes of this title, nonuniform local sales taxes are local sales taxes which do not meet the requirements of subsection (a).

(c) DISTRIBUTION OF LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), a State shall distribute to local jurisdictions a portion of the amounts collected pursuant to this title determined on the basis of—

(A) in the case of uniform local sales taxes, the proportion which each local jurisdiction receives of uniform local sales taxes not collected pursuant to this title,

(B) in the case of in-lieu fees described in subsection (b)(2)(B), the proportion which each local jurisdiction's nonuniform local sales tax receipts bears to the total nonuniform local sales tax receipts in the State, and

(C) in the case of any nonuniform local sales tax collected pursuant to this title, the geographical location of the transaction on which the tax was imposed.

The amounts determined under subparagraphs (A) and (B) shall be calculated on the basis of data for the most recently completed State fiscal year for which the data is available.

(2) TIMING.—Amounts described in paragraph (1) (B) or (C) shall be distributed by a State to its local jurisdictions in accordance with State timetables for distributing local sales taxes, but not less frequently than every calendar quarter. Amounts described in paragraph (1)(A) shall be distributed by a State as provided under State law.

(3) TRANSITION RULE.—If, upon the effective date of this title, a State has a State law in effect providing a method for distributing local sales taxes other than the method under this subsection, then this subsection shall not apply to that State until the 91st day following the adjournment sine die of that State's next regular legislative session which convenes after the effective date of

this title (or such earlier date as State law may provide). Local sales taxes collected pursuant to this title prior to the application of this subsection shall be distributed as provided by State law.

(d) EXCEPTION WHERE STATE BOARD COLLECTS TAXES.—Notwithstanding section ___03(b) and subsections (b) and (c) of this section, if a State had in effect on January 1, 1995, a State law which provides that local sales taxes are collected and remitted by a board of elected States officers, then for any period during which such law continues in effect—

(1) the State may require the collection and remittance under this title of only the State sales taxes and the uniform portion of local sales taxes, and

(2) the State may distribute any local sales taxes collected pursuant to this title in accordance with State law.

SEC. ___05. RETURN AND REMITTANCE REQUIREMENTS.

(a) IN GENERAL.—A State may not require any person subject to this title—

(1) to file a return reporting the amount of any tax collected or required to be collected under this title, or to remit the receipts of such tax, more frequently than once with respect to sales in a calendar quarter, or

(2) to file the initial such return, or to make the initial such remittance, before the 90th day after the person's first taxable transaction under this title.

(b) LOCAL TAXES.—The provisions of subsection (a) shall also apply to any person required by a State acting under authority of this title to collect a local sales tax or in-lieu fee.

SEC. ___06. NONDISCRIMINATION AND EXEMPTIONS.

Any State which exercises any authority granted under this title shall allow to all persons subject to this title all exemptions or other exceptions to State and local sales taxes which are allowed to persons located within the State or local jurisdiction.

SEC. ___07. APPLICATION OF STATE LAW.

(a) PERSONS REQUIRED TO COLLECT STATE OR LOCAL SALES TAX.—Any person required by section ___03 to collect a State or local sales tax shall be subject to the laws of such State relating to such sales tax to the extent that such laws are consistent with the limitations contained in this title.

(b) LIMITATIONS.—Except as provided in subsection (a), nothing in this title shall be construed to permit a State—

(1) to license or regulate any person,

(2) to require any person to qualify to transact intrastate business, or

(3) to subject any person to State taxes not related to the sales of tangible personnel property.

(c) PREEMPTION.—Except as otherwise provided in this title, this title shall not be construed to preempt or limit any power exercised or to be exercised by a State or local jurisdiction under the law of such State or local jurisdiction or under any other Federal law.

SEC. ___08. TOLL-FREE INFORMATION SERVICE.

A State shall not have power under this title to require any person to collect a State or local sales tax on any sale unless, at the time of such sale, such State has a toll-free telephone service available to provide such person information relating to collection of such State or local sales tax. Such information shall include, at a minimum, all applicable tax rates, return and remittance addresses and deadlines, and penalty and interest information. As part of the service, the State shall also provide all necessary forms and instructions at no cost to any person using the service. The State shall prominently display the toll-free telephone number on all correspondence with any person using the service. This service may be provided jointly with other States.

SEC. ___09. DEFINITIONS.

For the purposes of this title—

(1) the term ''compensating use tax'' means a tax imposed on or incident to the use, storage, consumption, distribution, or other use within a State or local jurisdiction or other area of a State, of tangible personal property;

(2) the term ''local sales tax'' means a sales tax imposed in a local jurisdiction or area of a State and includes, but is not limited to—

(A) a sales tax or in-lieu fee imposed in a local jurisdiction or area of a State by the State on behalf of such jurisdiction or area, and

(B) a sales tax imposed by a local jurisdiction or other State-authorized entity pursuant to the authority of State law, local law, or both;

(3) the term ''person'' means an individual, a trust, estate, partnership, society, association, company (including a limited liability company) or corporation, whether or not acting in a fiduciary or representative capacity, and any combination of the foregoing;

(4) the term ''sales tax'' means a tax, including a compensating use tax, that is—

(A) imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property as may be defined or specified under the laws imposing such tax, and

(B) measured by the amount of the sales price, cost, charge or other value of or for such property; and

(5) the term ''State'' means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SEC. ___10. EFFECTIVE DATE.

This title shall take effect 180 days after the date of the enactment of this title. In no event shall this title apply to any sale occurring before such effective date.

ABRAHAM AMENDMENT NO. 3678

Mr. MCCAIN (for Mr. ABRAHAM) proposed an amendment to the bill, S. 442, supra; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State government, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and

Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

BRYAN AMENDMENT NO. 3679

Mr. MCCAIN (for Mr. BRYAN) proposed an amendment to the bill, S. 442, supra; as follows:

At the end of the bill, add the following:

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1998''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—The term ''child'' means an individuals under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purposes; and

(B) making personal information collected form a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail services;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) a commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator

uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an on-line service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.—

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 203, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement

imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

NATIONAL HISTORIC TRAILS INTERPRETIVE CENTER

THOMAS AMENDMENT NO. 3680

Mr. HAGEL (for Mr. THOMAS) proposed an amendment to the bill (H.R. 2186) to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming; as follows:

On page 6, beginning on line 2 strike ''and, subject to the availability of appropriations,'' and insert ''and''.

On page 6 line 12 strike ''subject to appropriations,''.

On page 6 strike section [e] in its entirety and renumber the remaining sections accordingly.

GALLATIN LAND CONSOLIDATION ACT OF 1998

BAUCUS (AND BURNS) AMENDMENT NO. 3681

Mr. HAGEL (for Mr. BAUCUS for himself and Mr. BURNS) proposed an amendment to the bill (S. 1719) to direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co.; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Gallatin Land Consolidation Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the land north of Yellowstone National Park possesses outstanding natural characteristics and wildlife habitats that make the land a valuable addition to the National Forest System;

(2) it is in the interest of the United States to establish a logical and effective ownership pattern for the Gallatin National Forest, reducing long-term costs for taxpayers and increasing and improving public access to the forest;

(3) it is in the interest of the United States for the Secretary of Agriculture to enter into an Option Agreement for the acquisition of land owned by Big Sky Lumber Co. to accomplish the purposes of this Act; and

(4) other private property owners are willing to enter into exchanges that further improve the ownership pattern of the Gallatin National Forest.

SEC. 3. DEFINITIONS.

In this Act:

(1) BLM LAND.—The term ''BLM land'' means approximately 2,000 acres of Bureau of Land Management land (including all appurtenances to the land) that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(2) BSL.—The term ''BSL'' means Big Sky Lumber Co., an Oregon joint venture, and its successors and assigns, and any other entities having a property interest in the BSL land.

(3) BSL LAND.—The term ''BSL land'' means approximately 54,000 acres of land (including all appurtenances to the land except as provided in section 4(e)(1)(D)(i)) owned by BSL that is proposed to be acquired by the Secretary of Agriculture, as depicted in Exhibit A to the Option Agreement.

(4) EASTSIDE NATIONAL FORESTS.—The term ''Eastside National Forests'' means national forests east of the Continental Divide in the State of Montana, including the Beaverhead National Forest, Deerlodge National Forest, Helena National Forest, Custer National Forest, and Lewis and Clark National Forest.

(5) NATIONAL FOREST SYSTEM LAND.—The term ''National Forest System land'' means approximately 29,000 acres of land (including all appurtenances to the land) owned by the United States in the Gallatin National Forest, Flathead National Forest, Deerlodge National Forest, Helena National Forest, Lolo National Forest, and Lewis and Clark National Forest that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(6) OPTION AGREEMENT.—The term ''Option Agreement'' means—

(A) the document signed by BSL, dated July 29, 1998 and entitled ''Option Agreement for the Acquisition of Big Sky Lumber Co. Lands Pursuant to the Gallatin Range Consolidation and Protection Act of 1993'';

(B) the exhibits and maps attached to the document described in subparagraph (A); and

(C) an exchange agreement to be entered into between the Secretary and BSL and made part of the document described in subparagraph (A).

(7) SECRETARY.—The ''Secretary'' means the Secretary of Agriculture.

SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the terms and conditions of the Option Agreement—

(1) if BSL offers title acceptable to the Secretary to the BSL land—

(A) the Secretary shall accept a warranty deed to the BSL land and a quit claim deed to agreed to mineral interests in the BSL land;

(B) the Secretary shall convey to BSL, subject to valid existing rights and to other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary and BSL, fee title to the National Forest System land; and

(C) the Secretary of the Interior shall convey to BSL, by patent or otherwise, subject to valid existing rights and other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary of the Interior and BSL, fee title to the BLM land;

(2) if BSL places title in escrow acceptable to the Secretary to 11½ sections of the BSL land in the Taylor Fork area as set forth in the Option Agreement—

(A) the Secretary shall place Federal land in the Bangtail and Doe Creek areas of the Gallatin National Forest, as identified in the Option Agreement, in escrow pending conveyance to the Secretary of the Taylor Fork land, as identified in the Option Agreement in escrow;

(B) the Secretary, subject to the availability of funds, shall purchase 7½ sections of BSL land in the Taylor Fork area held in escrow and identified in the Option Agreement at a purchase price of $4,150,000; and

(C) the Secretary shall acquire the 4 Taylor Fork sections identified in the Option Agreement remaining in escrow, and any of the 6 sections referred to in subparagraph (B) for which funds are not available, by providing BSL with timber sale receipts from timber sales on the Gallatin National Forest and other eastside national forests in the State of Montana in accordance with subsection (c); and

(3)(A) as funds or timber sale receipts are received by BSL—

(i) the deeds to an equivalent value of BSL Taylor Fork land held in escrow shall be released and conveyed to the Secretary; and

(ii) the escrow of deeds to an equivalent value of Federal land shall be released to the Secretary in accordance with the terms of the Option Agreement; or

(B) if funds or timber sale receipts are not provided to BSL as provided in the Option Agreement, BSL shall be entitled to receive patents and deeds to an equivalent value of the Federal land held in escrow.

(b) VALUATION.—

(1) IN GENERAL.—The property and other assets exchanged or conveyed by BSL and the United States under subsection (a) shall be approximately equal in value, as determined by the Secretary.

(2) DIFFERENCE IN VALUE.—To the extent that the property and other assets exchanged or conveyed by BSL or the United States under subsection (a) are not approximately equal in value, as determined by the Secretary, the values shall be equalized in accordance with methods identified in the Option Agreement.

(c) TIMBER SALE PROGRAM.—

(1) IN GENERAL.—The Secretary shall implement a timber sale program, according to the terms and conditions identified in the Option Agreement and subject to compliance with applicable environmental laws (including regulations), judicial decisions, memoranda of understanding, small business set-aside rules, and acts beyond the control of the Secretary, to generate sufficient timber

receipts to purchase the portions of the BSL land in Taylor Fork identified in the Option Agreement.

(2) IMPLEMENTATION.—In implementing the timber sale program—

(A) the Secretary shall provide BSL with a proposed annual schedule of timber sales;

(B) as set forth in the Option Agreement, receipts generated from the timber sale program shall be deposited by the Secretary in a special account established by the Secretary and paid by the Secretary to BSL;

(C) receipts from the Gallatin National Forest shall not be subject to the Act of May 23, 1908 (16 U.S.C. 500); and

(D) the Secretary shall fund the timber sale program at levels determined by the Secretary to be commensurate with the preparation and administration of the identified timber sale program.

(d) RIGHTS-OF-WAY.—As specified in the Option Agreement—

(1) the Secretary, under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), shall convey to BSL such easements in or other rights-of-way over National Forest System land for access to the land acquired by BSL under this Act for all lawful purposes; and

(2) BSL shall convey to the United States such easements in or other rights-of-way over land owned by BSL for all lawful purposes, as may be agreed to by the Secretary and BSL.

(e) QUALITY OF TITLE.—

(1) DETERMINATION.—The Secretary shall review the title for the BSL land described in subsection (a) and, within 45 days after receipt of all applicable title documents from BSL, determine whether—

(A) the applicable title standards for Federal land acquisition have been satisfied and the quality of the title is otherwise acceptable to the Secretary of Agriculture;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the title includes both the surface and subsurface estates without reservation or exception (except as specifically provided in this Act), including—

(i) minerals, mineral rights, and mineral interests (including severed oil and gas surface rights), subject to and excepting other outstanding or reserved oil and gas rights;

(ii) timber, timber rights, and timber interests (except those reserved subject to section 251.14 of title 36, Code of Federal Regulations, by BSL and agreed to by the Secretary);

(iii) water, water rights, ditch, and ditch rights;

(iv) geothermal rights; and

(v) any other interest in the property.

(2) CONVEYANCE OF TITLE.—

(A) IN GENERAL.—If the quality of title does not meet Federal standards or is otherwise determined to be unacceptable to the Secretary of Agriculture, the Secretary shall advise BSL regarding corrective actions necessary to make an affirmative determination under paragraph (1).

(B) TITLE TO SUBSURFACE ESTATE.—Title to the subsurface estate shall be conveyed by BSL to the Secretary in the same form and content as that estate is received by BSL from Burlington Resources Oil & Gas Company Inc. and Glacier Park Company.

(f) TIMING OF IMPLEMENTATION.—

(1) LAND-FOR-LAND EXCHANGE.—The Secretary shall accept the conveyance of land described in subsection (a) not later than 45 days after the Secretary has made an affirmative determination of quality of title.

(2) LAND-FOR-TIMBER SALE RECEIPT EXCHANGE.—As provided in subsection (c) and the Option Agreement, the Secretary shall make timber receipts described in subsection (a)(3) available not later than December 31 of the fifth full calendar year that begins after the date of enactment of this Act.

(3) PURCHASE.—The Secretary shall complete the purchase of BSL land under subsection (a)(3)(B) not later than 30 days after the date on which appropriated funds are made available and an affirmative determination of quality of title is made with respect to the BSL land.

SEC. 5. OTHER FACILITATED EXCHANGES.

(a) AUTHORIZED EXCHANGES.—

(1) IN GENERAL.—The Secretary shall enter into the following land exchanges if the landowners are willing:

(A) Wapiti land exchange, as outlined in the documents entitled ''Non-Federal Lands in Facilitated Exchanges'' and ''Federal Lands in Facilitated Exchanges'' and dated July 1998.

(B) Eightmile/West Pine land exchange as outlined in the documents entitled ''Non-Federal Lands in Facilitated Exchanges'' and ''Federal Lands in Facilitated Exchanges'' and dated July 1998.

(2) EQUAL VALUE.—Before entering into an exchange under paragraph (1), the Secretary shall determine that the parcels of land to be exchanged are of approximately equal value, based on an appraisal.

(b) SECTION 1 OF THE TAYLOR FORK LAND.—

(1) IN GENERAL.—The Secretary is encouraged to pursue a land exchange with the owner of section 1 of the Taylor Fork land after completing a full public process and an appraisal.

(2) REPORT.—The Secretary shall report to Congress on the implementation of paragraph (1) not later than 180 days after the date of enactment of this Act.

SEC. 6. GENERAL PROVISIONS.

(a) MINOR CORRECTIONS.—

(1) IN GENERAL.—The Option Agreement shall be subject to such minor corrections and supplemental provisions as may be agreed to by the Secretary and BSL.

(2) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and each member of the Montana congressional delegation of any changes made under this subsection.

(3) BOUNDARY ADJUSTMENT.—

(A) IN GENERAL.—The boundary of the Gallatin National Forest is adjusted in the Wineglass and North Bridger area, as described on maps dated July 1998, upon completion of the conveyances.

(B) NO LIMITATION.—Nothing in this subsection limits the authority of the Secretary to adjust the boundary pursuant to section 11 of the Act of March 1, 1911 (commonly known as the ''Weeks Act'') (16 U.S.C. 521).

(C) ALLOCATION OF LAND AND WATER CONSERVATION FUND MONEYS.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), boundaries of the Gallatin National Forest shall be considered to be the boundaries of the National Forest as of January 1, 1965.

(b) PUBLIC AVAILABILITY.—The Option Agreement—

(1) shall be on file and available for public inspection in the office of the Supervisor of the Gallatin National Forest; and

(2) shall be filed with the county clerk of each of Gallatin County, Park County, Madison County, Granite County, Broadwater County, Meagher County, Flathead County, and Missoula County, Montana.

(c) COMPLIANCE WITH OPTION AGREEMENT.—The Secretary, the Secretary of the Interior, and BSL shall comply with the terms and conditions of the Option Agreement except to the extent that any provision of the Option Agreement conflicts with this Act.

(d) STATUS OF LAND.—All land conveyed to the United States under this Act shall be added to and administered as part of the Gallatin National Forest and Deerlodge National Forest, as appropriate, in accordance with the Act of March 1, 1911 (5 U.S.C. 515 et seq.), and other laws (including regulations) pertaining to the National Forest System.

(e) MANAGEMENT.—

(1) PUBLIC PROCESS.—Not later than 30 days after the date of completion of the land-for-land exchange under section 4(f)(1), the Secretary shall initiate a public process to amend the Gallatin National Forest Plan and the Deerlodge National Forest Plan to integrate the acquired land into the plans.

(2) PROCESS TIME.—The amendment process under paragraph (1) shall be completed as soon as practicable, and in no event later than 540 days after the date on which the amendment process is initiated.

(3) LIMITATION.—An amended management plan shall not permit surface occupancy on the acquired land for access to reserved or outstanding oil and gas rights or for exploration or development of oil and gas.

(4) INTERIM MANAGEMENT.—Pending completion of the forest plan amendment process under paragraph (1), the Secretary shall—

(A) manage the acquired land under the standards and guidelines in the applicable land and resource management plans for adjacent land managed by the Forest Service; and

(B) maintain all existing public access to the acquired land.

(f) RESTORATION.—

(1) IN GENERAL.—The Secretary shall implement a restoration program including reforestation and watershed enhancements to bring the acquired land and surrounding national forest land into compliance with Forest Service standards and guidelines.

(2) STATE AND LOCAL CONSERVATION CORPS.—In implementing the restoration program, the Secretary shall, when practicable, use partnerships with State and local conservation corps, including the Montana Conservation Corps, under the Public Lands Corps Act of 1993 (16 U.S.C. 1721 et seq.).

(g) IMPLEMENTATION.—The Secretary of Agriculture shall ensure that sufficient funds are made available to the Gallatin National Forest to carry out this Act.

(i) REVOCATIONS.—Notwithstanding any other provision of law, any public orders withdrawing lands identified in the Option Agreement from all forms of appropriation under the public land laws are revoked upon conveyance of the lands by the Secretary.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Amend the title so as to read: ''To direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities.''.

FINANCIAL SERVICES ACT OF 1998

GORTON AMENDMENT NO. 3682

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service

providers, and for other purposes; as follows:

Section 401(a) of H.R. 10 is amended as follows:

In new subparagraph (9)(C) of section (c) of the Home Owners' Loan Act (12 U.S.C. Sec. 1467a(c)), by inserting the following language after the word ''date,'' in the last line of the subparagraph: ''or that is a company described in subparagraph (A) that acquires control of a savings and loan holding company described in this subparagraph and complies thereafter with subparagraph (B) with respect to any activity in which such company or the acquired savings and loan holding company was not engaged as of the date of the acquisition,''

EXPLANATION

The proposed amendment prohibits a financial company that acquires a grandfathered unitary thrift holding company from engaging in any new non-financial activities post-acquisition. Under the proposed amendment, the financial company could retain and operate any existing non-financial activities of the grandfathered thrift holding company without a forced divestiture. This provision only applies to financial companies that are not regulated under the Bank Holding Company Act.

The proposed amendment does not alter the provisions that prohibit non-financial activities by a banking holding company or financial holding company under the Bank Holding Company Act. Thus, if a banking holding company or financial holding company acquired a grandfathered unitary thrift holding company with non-financial activities, these non-financial activities would have to be divested pursuant to the divestiture provisions of the Bank Holding Company Act.

NATIONAL MOTOR VEHICLE SAFETY, ANTI-THEFT, TITLE REFORM, AND CONSUMER PROTECTION ACT OF 1998

GORTON AMENDMENT NO. 3683

Mr. SESSIONS (for Mr. GORTON) proposed an amendment to the bill (S. 852) to establish nationally uniform requirements regarding the titling and registration of salvage, non-repairable, and rebuilt vehicles; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Salvage Motor Vehicle Consumer Protection Act of 1998''.

SEC. 2. MOTOR VEHICLE TITLING AND DISCLOSURE REQUIREMENTS.

(a) AMENDMENT TO TITLE 49, UNITED STATES CODE.—Subtitle VI of title 49, United States Code, is amended by inserting a new chapter at the end:

''CHAPTER 333—AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS

''Sec.
''33301. Definitions.
''33302. Passenger motor vehicle titling.
''33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles.
''33304. Report on funding.
''33305. Effect on State law.
''33306. Civil penalties.
''33307. Actions by States.

''§ 33301. Definitions

''(A) DEFINITIONS.—For the purposes of this chapter:

''(1) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' has the same meaning given such term by section 32101(10), except, notwithstanding section 32101(9), it includes a multi-purpose passenger vehicle (constructed on a truck chassis or with special features for occasional off-road operation), a truck, other than a truck referred to in section 32101(10)(B), and a pickup truck when that vehicle or truck is rated by the manufacturer of such vehicle or truck at not more than 10,000 pounds gross vehicle weight, and it only includes a vehicle manufactured primarily for use on public streets, roads and highways.

''(2) SALVAGE VEHICLE.—The term 'salvage vehicle' means any passenger motor vehicle, other than a flood vehicle or a nonrepairable vehicle, which—

''(A) is a late model vehicle which has been wrecked, destroyed, or damaged, to the extent that the total cost of repairs to rebuild or reconstruct the passenger motor vehicle to its condition immediately before it was wrecked, destroyed, or damaged, and for legal operation on the roads or highways, exceeds 75 percent of the retail value of the passenger motor vehicle;

''(B) is a later model vehicle which has been wrecked, destroyed, or damaged, and to which an insurance company acquires ownership pursuant to a damage settlement (except in the case of a settlement in connection with a recovered stolen vehicle, unless such vehicle sustained damage sufficient to meet the damage threshold prescribed by subparagraph (A)); or

''(C) the owner wishes to voluntarily designate as a salvage vehicle by obtaining a salvage title, without regard to the level of damage, age, or value of such vehicle or any other factor, except that such designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligation or liability.

Notwithstanding any other provision of this chapter, a State may use the term 'older model salvage vehicle' to designate a wrecked, destroyed, or damaged vehicle that does not meet the definition of a late model vehicle in paragraph (9). If a State, as of the date of enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, has established a salvage definition at a lesser percentage than provided under subparagraph (A), then that definition shall not be considered to be inconsistent with the provisions of this chapter.

''(3) SALVAGE TITLE.—The term 'salvage title' means a passenger motor vehicle ownership document issued by the State to the owner of a salvage vehicle. A salvage title shall be conspicuously labeled with the word 'salvage' across the front.

''(4) REBUILT SALVAGE VEHICLE.—The term 'rebuilt salvage vehicle' means—

''(A) any passenger motor vehicle which was previously issued a salvage title, has passed State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, has passed the State safety inspection in those States requiring a safety inspection pursuant to section 33302(b)(8), has been issued a certificate indicating that the passenger motor vehicle has passed the required safety inspection in those States requiring such a safety inspection pursuant to section 33302(b)(8), and has a decal stating 'Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' affixed to the driver's door jamb; or

''(B) any passenger motor vehicle which was previously issued a salvage title, has passed a State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, and has, affixed to the driver's door jamb, a decal stating 'Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria' in those States not requiring a safety inspection pursuant to section 33302(b)(8).

''(5) REBUILT SALVAGE TITLE.—The term 'rebuilt salvage title' means the passenger motor vehicle ownership document issued by the State to the owner of a rebuilt salvage vehicle. A rebuilt salvage title shall be conspicuously labeled either with the words 'Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' or 'Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria,' as appropriate, across the front.

''(6) NONREPAIRABLE VEHICLE.—The term 'nonrepairable vehicle' means any passenger motor vehicle, other than a flood vehicle, which is incapable of safe operation for use on roads or highways and which has no resale value except as a source of parts or scrap only or which the owner irreversibly designates as a source of parts or scrap. Such passenger motor vehicle shall be issued a nonrepairable vehicle certificate and shall never again be titled or registered.

''(7) NONREPAIRABLE VEHICLE CERTIFICATE.—The term 'nonrepairable vehicle certificate' means a passenger motor vehicle ownership document issued by the State to the owner of a nonrepairable vehicle. A nonrepairable vehicle certificate shall be conspicuously labeled with the word 'Nonrepairable' across the front.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(9) LATE MODEL VEHICLE.—The term 'Late Model Vehicle' means any passenger motor vehicle which—

''(A) has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked, destroyed, or damaged, or any of the six preceding years; or

''(B) has a retail value of more than $7,500.

The Secretary shall adjust such retail value on an annual basis in accordance with changes in the consumer price index.

''(10) RETAIL VALUE.—The term 'retail value' means the actual cash value, fair market value, or retail value of a passenger motor vehicle as—

''(A) set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values; or

''(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment.

''(11) COST OF REPAIRS.—The term 'cost of repairs' means the estimated retail cost of parts needed to repair the vehicle or, if the vehicle has been repaired, the actual retail cost of the parts used in the repair, and the cost of labor computed by using the hourly labor rate and time allocations that are reasonable and customary in the automobile repair industry in the community where the repairs are to be performed.

''(12) FLOOD VEHICLE.—

''(A) IN GENERAL.—The term 'flood vehicle' means any passenger motor vehicle that—

''(i) has been acquired by an insurance company as part of a damage settlement due to water damage; or

''(ii) has been submerged in water to the point that rising water has reached over the door sill, has entered the passenger or trunk compartment, and has exposed any electrical, computerized, or mechanical component to water, except where a passenger motor vehicle which, pursuant to an inspection conducted by an insurance adjuster or estimator, a motor vehicle repairer or motor

vehicle dealer in accordance with inspection guidelines or procedures established by the Secretary or the State, is determined—

''(I) to have no electrical, computerized or mechanical components which were damaged by water; or

''(II) to have one or more electrical, computerized or mechanical components which were damaged by water and where all such damaged components have been repaired or replaced.

''(B) INSPECTION NOT REQUIRED FOR ALL FLOOD VEHICLES.—No inspection under subparagraph (A) shall be required unless the owner or insurer of the passenger motor vehicle is seeking to avoid a brand of 'Flood' pursuant to this chapter.

''(C) EFFECT OF DISCLOSURE.—Disclosing a passenger motor vehicle's status as a flood vehicle or conducting an inspection pursuant to subparagraph (A) shall not impose on any person any liability for damage to (except in the case of damage caused by the inspector at the time of the inspection) or reduced value of a passenger motor vehicle.

''(b) CONSTRUCTION.—The definitions set forth in subsection (a) only apply to vehicles in a State which are wrecked, destroyed, or otherwise damaged on or after the date on which such State complies with the requirements of this chapter and the rule promulgated pursuant to section 33302(b).

''§ 33302. Passenger motor vehicle titling

''(a) CARRY-FORWARD OF STATE INFORMATION.—For any passenger motor vehicle, the ownership of which is transferred on or after the date that is 1 year after the date of the enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, each State receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of that Act, in licensing such vehicle for use, shall disclose in writing on the certificate of title whenever records readily accessible to the State indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'older model salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', 'nonrepairable', 'reconstructed', 'rebuilt', or any other symbol or word of like kind, or that it has been damaged by flood, and the name of the State that issued that title.

''(b) NATIONALLY UNIFORM TITLE STANDARDS AND CONTROL METHODS.—Not later than 18 months after the date of the enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, the Secretary shall by rule require each State receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of that Act, in licensing any passenger motor vehicle where ownership of such passenger motor vehicle is transferred more than 2 years after publication of such final rule, to apply uniform standards, procedures, and methods for the issuance and control of titles for motor vehicles and for information to be contained on such titles. Such titling standards, control procedures, methods, and information shall include the following requirements:

''(1) A State shall conspicuously indicate on the face of the title or certificate for a passenger motor vehicle, as applicable, if the passenger motor vehicle is a salvage vehicle, a nonrepairable vehicle, a rebuilt salvage vehicle, or a flood vehicle.

''(2) Such information concerning a passenger motor vehicle's status shall be conveyed on any subsequent title, including a duplicate or replacement title, for the passenger motor vehicle issued by the original titling State or any other State.

''(3) The title documents, the certificates, and decals required by section 33301(4), and the issuing system shall meet security standards minimizing the opportunities for fraud.

''(4) The certificate of title shall include the passenger motor vehicle make, model, body type, year, odometer disclosure, and vehicle identification number.

''(5) The title documents shall maintain a uniform layout, to be established in consultation with the States or an organization representing them.

''(6) A passenger motor vehicle designated as nonrepairable shall be issued a nonrepairable vehicle certificate and shall not be retitled.

''(7) No rebuilt salvage title shall be issued to a salvage vehicle unless, after the salvage vehicle is repaired or rebuilt, it complies with the requirements for a rebuilt salvage vehicle pursuant to section 33301(4). Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. Any such anti-theft inspection program shall include the following:

''(A) A requirement that the owner of any passenger motor vehicle submitting such vehicle for an anti-theft inspection provide a completed document identifying the vehicle's damage prior to being repaired, a list of replacement parts used to repair the vehicle, and proof of ownership of such replacement parts, as may be evidenced by bills of sale, invoices, or, if such documents are not available, other proof of ownership for the replacement parts. The owner shall also include an affirmation that the information in the declaration is complete and accurate and that, to the knowledge of the declarant, no stolen parts were used during the rebuilding.

''(B) A requirement to inspect the passenger motor vehicle or any major part or any major replacement part required to be marked under section 33102 for signs of such mark or vehicle identification number being illegally altered, defaced, or falsified. Any such passenger motor vehicle or any such part having a mark or vehicle identification number that has been illegally altered, defaced, or falsified, and that cannot be identified as having been legally obtained (through bills of sale, invoices, or other ownership documentation), shall be contraband and subject to seizure. The Secretary, in consultation with the Attorney General, shall, as part of the rule required by this section, establish procedures for dealing with those parts whose mark or vehicle identification number is normally removed during industry accepted remanufacturing or rebuilding practices, which parts shall be deemed identified for purposes of this section if they bear a conspicuous mark of a type, and applied in such a manner, as designated by the Secretary, indicating that they have been rebuilt or remanufactured. With respect to any vehicle part, the Secretary's rule, as required by this section, shall acknowledge that a mark or vehicle identification number on such part may be legally removed or altered as provided for in section 511 of title 18, United States Code, and shall direct inspectors to adopt such procedures as may be necessary to prevent the seizure of a part from which the mark or vehicle identification number has been legally removed or altered.

''(8) Any safety inspection for a rebuilt salvage vehicle performed pursuant to this chapter shall be performed in accordance with nationally uniform safety inspection criteria established by the Secretary. A State may determine whether to conduct such safety inspection itself, contract with one or more third parties, or permit self-inspection by a person licensed by such State in an automotive-related business, all subject to criteria promulgated by the Secretary hereunder. Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. A State requiring such safety inspection may require the payment of a fee for the privilege of such inspection or the processing thereof.

''(9) No duplicate or replacement title shall be issued unless the word 'duplicate' is clearly marked on the face thereof and unless the procedures for such issuance are substantially consistent with Recommendation three of the Motor Vehicle Titling, Registration and Salvage Advisory Committee.

''(10) A State shall employ the following titling and control methods:

''(A) If an insurance company is not involved in a damage settlement involving a salvage vehicle or a nonrepairable vehicle, the passenger motor vehicle owner shall apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable, before the passenger motor vehicle is repaired or the ownership of the passenger motor vehicle is transferred, but in any event within 30 days after the passenger motor vehicle is damaged.

''(B) If an insurance company, pursuant to a damage settlement, acquires ownership of a passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company or salvage facility or other agent on its behalf shall apply for a salvage title or nonrepairable vehicle certificate within 30 days after the title is properly assigned by the owner to the insurance company and delivered to the insurance company or salvage facility or other agent on its behalf with all liens released.

''(C) If an insurance company does not assume ownership of an insured's or claimant's passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company shall notify the owner of the owner's obligation to apply for a salvage title or nonrepairable vehicle certificate for the passenger motor vehicle and notify the State passenger motor vehicle titling office that a salvage title or nonrepairable vehicle certificate should be issued for the vehicle, except to the extent such notification is prohibited by State insurance law.

''(D) If a leased passenger motor vehicle incurs damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the lessor shall apply for a salvage title or nonrepairable vehicle certificate within 21 days after being notified by the lessee that the vehicle has been so damaged, except when an insurance company, pursuant to a damage settlement, acquires ownership of the vehicle. The lessee of such vehicle shall inform the lessor that the leased vehicle has been so damaged within 30 days after the occurrence of the damage.

''(E) Any person acquiring ownership of a damaged passenger motor vehicle that meets the definition of a salvage or nonrepairable vehicle for which a salvage title or nonrepairable vehicle certificate has not been issued, shall apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable. This application shall be made before the vehicle is further transferred, but in any event, within 30 days after ownership is acquired. The requirements of this subparagraph shall not apply to any scrap metal processor which acquires a passenger motor vehicle for the sole purpose of processing it into prepared grades of scrap and which so processes such vehicle.

''(F) State records shall note when a nonrepairable vehicle certificate is issued. No State shall issue a nonrepairable vehicle certificate after 2 transfers of ownership.

''(G) When a passenger motor vehicle has been flattened, baled, or shredded, whichever

comes first, the title or nonrepairable vehicle certificate for the vehicle shall be surrendered to the State within 30 days. If the second transferee on a nonrepairable vehicle certificate is unequipped to flatten, bale, or shred the vehicle, such transferee shall, at the time of final disposal of the vehicle, use the services of a professional automotive recycler or professional scrap processor who is hereby authorized to flatten, bale, or shred the vehicle and to effect the surrender of the nonrepairable vehicle certificate to the State on behalf of such second transferee. State records shall be updated to indicate the destruction of such vehicle and no further ownership transactions for the vehicle will be permitted. If different than the State of origin of the title or nonrepairable vehicle certificate, the State of surrender shall notify the State of origin of the surrender of the title or nonrepairable vehicle certificate and of the destruction of such vehicle.

''(H) When a salvage title is issued, the State records shall so note. No State shall permit the retitling for registration purposes or issuance of a rebuilt salvage title for a passenger motor vehicle with a salvage title without a certificate of inspection, which complies with the security and guideline standards established by the Secretary pursuant to paragraphs (3), (7), and (8), as applicable, indicating that the vehicle has passed the inspections required by the State. This subparagraph does not preclude the issuance of a new salvage title for a salvage vehicle after a transfer of ownership.

''(I) After a passenger motor vehicle titled with a salvage title has passed the inspections required by the State, the inspection official will affix the secure decal required pursuant to section 33301(4) to the driver's door jamb of the vehicle and issue to the owner of the vehicle a certificate indicating that the passenger motor vehicle has passed the inspections required by the State. The decal shall comply with the permanency requirements established by the Secretary.

''(J) The owner of a passenger motor vehicle titled with a salvage title may obtain a rebuilt salvage title or vehicle registration, or both, by presenting to the State the salvage title, properly assigned, if applicable, along with the certificate that the vehicle has passed the inspections required by the State. With such proper documentation and upon request, a rebuilt salvage title or registration, or both, shall be issued to the owner. When a rebuilt salvage title is issued, the State records shall so note.

''(11) A seller of a passenger motor vehicle that becomes a flood vehicle shall, prior to the time of transfer of ownership of the vehicle, give the transferee a written notice that the vehicle has been damaged by flood, provided such person has actual knowledge that such vehicle has been damaged by flood. At the time of the next title application for the vehicle, disclosure of the flood status shall be provided to the applicable State with the properly assigned title and the word 'Flood' shall be conspicuously labeled across the front of the new title.

''(12) In the case of a leased passenger motor vehicle, the lessee, within 15 days of the occurrence of the event that caused the vehicle to become a flood vehicle, shall give the lessor written disclosure that the vehicle is a flood vehicle.

''(13) Ownership of a passenger motor vehicle may be transferred on a salvage title, however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt salvage title.

''(14) Ownership of a passenger motor vehicle may be transferred on a rebuilt salvage title, and a passenger motor vehicle for which a rebuilt salvage title has been issued may, if permitted by State law, be registered for use on the roads and highways.

''(15) Ownership of a passenger motor vehicle may only be transferred 2 times on a nonrepairable vehicle certificate. A passenger motor vehicle which a nonrepairable vehicle certificate has been issued can never be titled or registered for use on roads or highways.

''(c) CONSUMER NOTICE IN NONCOMPLIANT STATES.—Any State receiving, either directly or indirectly, funds appropriated under section 30503(c) of this title after the date of enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998 and not complying with the requirements of subjections (a) and (b) of this section, shall conspicuously print the following notice on all titles or ownership certificates issued for passenger motor vehicles in such State until such time as such State is in compliance with the requirements of subjections (a) and (b) of this section: 'NOTICE: This State does not conform to the uniform Federal requirements of the National Salvage Motor Vehicle Consumer Protection Act of 1998.'.

''(d) ELECTRONIC PROCEDURES.—A State may employ electronic procedures in lieu of paper documents whenever such electronic procedures provide the same information, function, and security otherwise required by this section.

''§ 33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles

''(a) WRITTEN DISCLOSURE REQUIREMENTS.—

''(1) GENERAL RULE.—Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a rebuilt salvage vehicle shall, prior to the time of transfer of ownership of the vehicle, give the transferee a written disclosure that the vehicle is a rebuilt salvage vehicle when such person has actual knowledge of the status of such vehicle.

''(2) FALSE STATEMENT.—A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

''(3) COMPLETENESS.—A person acquiring a rebuilt salvage vehicle for resale may accept a disclosure under paragraph (1) only if it is complete.

''(4) REGULATIONS.—The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under paragraph (1).

''(b) LABEL REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall by regulation require that a label be affixed to the windshield or window of a rebuilt salvage vehicle before its first sale at retail containing such information regarding that vehicle as the Secretary may require. The label shall be affixed by the individual who conducts the applicable State antitheft inspection in a participating State.

''(2) REMOVAL, ALTERATION, OR ILLEGIBILITY OF REQUIRED LABEL.—No person shall willfully remove, alter, or render illegible any label required by paragraph (1) affixed to a rebuilt salvage vehicle before the vehicle is delivered to the actual custody and possession of the first retail purchaser.

''(c) LIMITATION.—The requirements of subsections (a) and (b) shall only apply to a transfer of ownership of a rebuilt salvage vehicle where such transfer occurs in a State which, at the time of the transfer, is complying with subsections (a) and (b) of section 33302.

''§ 33304. Report on funding

''The Secretary shall, contemporaneously with the issuance of a final rule pursuant to section 33302(b), report to appropriate committees of Congress whether the costs to the States of compliance with such rule can be met by user fees for issuance of titles, issuance of registrations, issuance of duplicate titles, inspection of rebuilt vehicles, or for the State services, or by earmarking any moneys collected through law enforcement action to enforce requirements established by such rule.

''§ 33305. Effect on State law

''(a) IN GENERAL.—Unless a State is in compliance with subsection (c) of section 33302, effective on the date the rule promulgated pursuant to section 33302 becomes effective, the provisions of this chapter shall preempt all State laws in States receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, to the extent they are inconsistent with the provisions of this chapter or the rule promulgated pursuant to section 33302, which—

''(1) set forth the form of the passenger motor vehicle title;

''(2) define, in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any term defined in section 33301 or the terms 'salvage', 'nonrepairable', or 'flood', or apply any of those terms to any passenger motor vehicle (but not to a passenger motor vehicle part or part assembly separate from a passenger motor vehicle); or

''(3) set forth titling, recordkeeping, antitheft inspection, or control procedures in connection with any salvage vehicle, rebuilt salvage vehicle, non-repairable vehicle, or flood vehicle.

''(b) EXCEPTIONS.—

''(1) PASSENGER MOTOR VEHICLE; OLDER MODEL SALVAGE.—Subsection (a)(2) does not preempt State use of the term—

''(A) 'passenger motor vehicle' in statutes not related to titling, recordkeeping, antitheft inspection, or control procedures in connection with any salvage vehicle, rebuilt salvage vehicle, nonrepairable vehicle, or flood vehicle; or

''(B) 'older model salvage' to designate a wrecked, destroyed, or damaged vehicle that is older than a late model vehicle.

''(2) CONSUMER LAW ACTIONS.—Nothing in this chapter may be construed to affect any private right of action under State law.

''(c) CONSTRUCTION.—Additional disclosures of a passenger motor vehicle's title status or history, in addition to the terms defined in section 33301, shall not be deemed inconsistent with the provisions of this chapter. Such disclosures shall include disclosures made on a certificate of title. When used in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any definition of a term defined in section 33301 which is different than the definition in that section or any use of any term listed in subsection (a), but not defined in section 33301, shall be deemed inconsistent with the provisions of this chapter. Nothing in this chapter shall preclude a State from disclosing on a rebuilt national salvage title that a rebuilt national salvage vehicle has passed a State safety inspection which differed from the nationally uniform criteria to be promulgated pursuant to section 33302(b)(8).

''§ 33306. Civil penalties

''(a) PROHIBITED ACTS.—It is unlawful for any person knowingly to—

''(1) make or cause to be made any false statement on an application for a title (or duplicate title) for a passenger motor vehicle or any disclosure made pursuant to section 33303;

''(2) fail to apply for a salvage title when such an application is required;

''(3) alter, forge, or counterfeit a certificate of title (or an assignment thereof), a nonrepairable vehicle certificate, a certificate verifying an anti-theft inspection or an anti-theft and safety inspection, a decal affixed to a passenger motor vehicle pursuant to section 33302(b)(10)(I), or any disclosure made pursuant to section 33303;

''(4) falsify the results of, or provide false information in the course of, an inspection conducted pursuant to section 33302(b)(7) or (8);

''(5) offer to sell any salvage vehicle or non-repairable vehicle as a rebuild salvage vehicle;

''(6) fail to make any disclosure required by section 33302(b)(11);

''(7) fail to make any disclosure required by section 33303;

''(8) violate a regulation prescribed under this chapter;

''(9) move a vehicle or a vehicle title in interstate commerce for the purpose of avoiding the titling requirements of this chapter; or

''(10) conspire to commit any of the acts enumerated in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (9.,

''(b) CIVIL PENALTY.—Any person who commits an unlawful act as provided in subsection (a) of this section shall be fined a civil penalty of up to $2,000 per offense. A separate violation occurs for each passenger motor vehicle involved in the violation.

''§ 33307. Actions by States

''(a) IN GENERAL.—When a person violates any provision of this chapter, the chief law enforcement officer of the State in which the violation occurred may bring an action—

''(1) to restrain the violation;

''(2) recover amounts for which a person is liable under section 33306; or

''(3) to recover the amount of damage suffered by any resident in that State who suffered damage as a result of the knowing commission of an unlawful act under section 33306(a) by another person.

''(b) STATUTE OF LIMITATIONS.—An action under subsection (a) shall be brought in any court of competent jurisdiction within 2 years after the date on which the violation occurs.

''(c) NOTICE.—The State shall serve prior written notice of any action under subsection (a) or (f)(2) upon the Attorney General of the United States and provide the Attorney General with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting an action, the Attorney General shall have the right—

''(1) to intervene in such action;

''(2) upon so intervening, to be heard on all matters arising therein; and

''(3) to file petitions for appeal.

''(d) CONSTRUCTION.—For purposes of bring any action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(e) VENUE; SERVICE OF PROCESS.—Any action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

''(f) ACTIONS BY STATE OFFICIALS.—

''(1) Nothing contained in this section shall prohibit an attorney general of a State or other authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

''(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State or behalf of its residents.''.

(b) CONFORMING AMENDMENT.—The table of chapters for part C at the beginning of subtitle VI of title 49, United States Code, is amended by inserting at the end the following new item:

''333. AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS ..... 33301''.

SEC. 3. AMENDMENTS TO CHAPTER 305.

(a) DEFINITIONS.—

(1) Section 30501(4) of title 49, United States Code, is amended to read as follows:

''(4) 'nonrepairable vehicle', 'salvage vehicle', and 'rebuilt salvage vehicle' have the same meanings given those terms in section 33301 of this title.''.

(2) Section 30501(5) of such title is amended by striking ''junk automobiles'' and insert ''non-repairable vehicles''.

(3) Section 30501(8) of such title is amended by striking ''salvage automobiles'' and inserting ''salvage vehicles''.

(4) Section 30501 of such title is amended by striking paragraph (7) and redesignating paragraphs (8) and (9) or paragraph (7) and (8), respectively.

(b) NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.—

(1) Section 30502(d)(3) of title 49, United States Code, is amended to read as follows:

''(3) whether an automobile known to be titled in a particular State is or has been a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle;''.

(2) Section 30502(d)(5) of such title is amended to read as follows:

''(5) whether an automobile bearing a known vehicle identification number has been reported as a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle under section 30504 of this title.''.

(c) STATE PARTICIPATION.—Section 30503 of title 49, United States Code, is amended to read as follows:

''§ 30503. State participation

''(a) STATE INFORMATION.—Each State receiving funds appropriated under subsection (c) shall make titling information maintained by that State available for use in operating the National Motor Vehicle Title Information System established or designated under section 30502 of this title.

''(b) VERIFICATION CHECKS.—Each State receiving funds appropriated under subsection (c) shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

''(1) communicating to the operator—

''(A) the vehicle identification number of the automobile for which the certificate of title is sought;

''(B) the name of the State that issued the most recent certificate of title for the automobile; and

''(C) the name of the individual or entity to whom the certificate of title was issued; and

''(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

''(c) GRANTS TO STATES.—

''(1) In cooperation with the States and not later than January 1, 1994, the Attorney General shall—

''(A) conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

''(B) determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

''(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.

''(d) REPORT TO CONGRESS.—Not later than October 1, 1998, the Attorney General shall report to Congress on which States have met the requirements of this section. If a State has not met the requirements, the Attorney General shall describe the impediments that have resulted in the State's failure to meet the requirements.''.

(d) REPORTING REQUIREMENTS.—Section 30504 of title 49, United States Code, is amended by striking ''junk automobiles or salvage automobiles'' every place it appears and inserting ''nonrepairable vehicles, rebuilt salvage vehicles or salvage vehicles''.

SEC. 4. DEALER NOTIFICATION PROGRAM FOR PROHIBITED SALE OF NONQUALIFYING VEHICLES FOR USE AS SCHOOLBUSES.

Section 30112 of title 49, United States Code, is amended by adding at the end hereof the following:

''(c) NOTIFICATION PROGRAM FOR DEALERS CONCERNING SALES OF VEHICLES AS SCHOOLBUSES.—Not later than September 1, 1998, the Secretary shall develop and implement a program to notify dealers and distributors in the United States that subsection (a) prohibits the sale or delivery of any vehicle for use as a schoolbus (as that term is defined in section 30125(a)(1) of this title) that does not meet the standards prescribed under section 30125(b) of this title.''.

LEVIN (AND OTHERS) AMENDMENT NO. 3684

Mr. SESSIONS (for Mr. LEVIN for himself, Ms. FEINSTEIN, and Mr. BRYAN) proposed an amendment to amendment No. 3683 proposed by Mr. GORTON to the bill, S. 852, supra; as follows:

On page 2, before line 1, strike the item relating to section 33303 and insert the following:

''33303. Disclosure and label requirements on transfer of rebuilt Federal salvage vehicles.

On page 2, lines 17 and 18, strike ''SALVAGE VEHICLE.—The term 'salvage vehicle'' and insert ''FEDERAL SALVAGE VEHICLE.—The term 'Federal salvage vehicle''.

On page 4, line 10, strike ''SALVAGE TITLE.—The term 'salvage title'' and insert ''FEDERAL SALVAGE TITLE.—The term 'Federal salvage title''.

On page 4, lines 15 and 16, strike ''REBUILT SALVAGE VEHICLE.—The term 'rebuilt salvage vehicle'' and insert ''FEDERAL REBUILT SALVAGE VEHICLE.—The term 'Federal rebuilt salvage vehicle''.

On page 5, line 4, strike ''Rebuilt'' and insert ''Federal Rebuilt''.

On page 5, line 14, strike ''Rebuilt'' and insert ''Federal Rebuilt''.

On page 5, beginning on line 19, strike ''REBUILT SALVAGE TITLE.—The term 'rebuilt salvage title'' and insert ''FEDERAL REBUILT SALVAGE TITLE.—The term 'Federal rebuilt salvage title''.

On page 5, line 22, strike ''rebuilt salvage'' and insert ''Federal rebuilt salvage''.

On page 5, line 22, strike ''a rebuilt salvage'' and insert ''a Federal rebuilt salvage''.

On page 5, lines 24 and 25, strike ''Rebuilt Salvage'' each place that term appears and insert ''Federal Rebuilt Salvage''.

On page 6, lines 4 and 5, strike ''NONREPAIRABLE VEHICLE.—The term 'nonrepairable vehicle'' and insert ''FEDERAL NONREPAIRABLE VEHICLE.—The term 'Federal nonrepairable vehicle''.

On page 6, line 11, strike ''nonrepairable'' and insert ''Federal nonrepairable''.

On page 6, lines 14 and 15, strike ''NONREPAIRABLE VEHICLE CERTIFICATE.—The term 'nonrepairable vehicle certificate'' and insert ''FEDERAL NONREPAIRABLE VEHICLE CERTIFICATE.—The term 'Federal nonrepairable vehicle certificate''.

On page 6, lines 17 through 18, strike ''nonrepairable'' and insert ''Federal nonrepairable.

On page 6, line 18, strike ''nonrepairable'' and insert ''Federal nonrepairable''.

On page 6, line 19, strike ''word'' and insert ''words''.

On page 6, lines 19 and 20, strike ''Nonrepairable'' and insert ''Federal nonrepairable''.

On page 8, line 3, strike ''FLOOD VEHICLE.—'' and insert ''FEDERAL FLOOD VEHICLE.—''.

On page 9, line 8, strike ''FLOOD'' and insert ''FEDERAL FLOOD''.

On page 9, line 11, strike ''Flood'' and insert ''Federal Flood''.

On page 22, strike lines 20 and 21 and insert the following:

''§ 33303. Disclosure and label requirements on transfer of Federal rebuilt salvage vehicles''

On page 21, line 2, strike ''word'' and insert ''words''.

On page 21, line 2, strike ''Flood'' and insert ''Federal Flood''.

Strike ''salvage'' and insert ''Federal salvage'' on the following pages and in or beginning on the following lines:

(1) Page 3, line 15.
(2) Page 4, lines 12, 13, 14, and 18.
(3) Page 5, line 9.
(4) Page 11, line 14.
(5) Page 15, lines 17, 18, and 20.
(6) Page 16, lines 7, 11, 16, 19, and 22.
(7) Page 17, lines 5, 6, 18, 19, and 21.
(8) Page 19, lines 8, 11, 12, 19, and 22.
(9) Page 20, line 10.
(10) Page 21, lines 10 and 11.
(11) Page 25, lines 15 and 22.
(12) Page 27, line 15.
(13) Page 28, line 4.
(14) Page 31, lines 11 and 19.
(15) Page 32, line 12.
(16) Page 34, line 17.

Strike ''flood'' and insert ''Federal flood'' on the following pages and in or beginning on the following lines:

(1) Page 6, line 6.
(2) Page 9, line 14.
(3) Page 11, line 15.
(4) Page 21, line 8.
(5) Page 25, lines 16 and 23.

Strike ''rebuilt salvage'' and insert ''Federal rebuilt salvage'' on the following pages and in or beginning on the following lines:

(1) Page 5, line 22 (each place it appears).
(2) Page 11, lines 14 and 15.
(3) Page 12, line 14.
(4) Page 14, line 18.
(5) Page 20, lines 8 through 9, 16, and 14.
(6) Page 21, lines 16 and 17.
(7) Page 22, line 25.
(8) Page 23, lines 3, 11, and 20.
(9) Page 24, lines 4 and 9.
(10) Page 25, line 22.
(11) Page 27, line 4.
(12) Page 28, line 5.
(13) Page 31, line 12.
(14) Page 32, lines 5 and 11.
(15) Page 34, line 16.

Strike ''nonrepairable'' and insert ''Federal nonrepairable'' on the following pages and in or beginning on the following lines:

(1) Page 11, line 14.
(2) Page 12, line 9.
(3) Page 15, lines 18 and 20.
(4) Page 16, lines 5, 8, 17, 20, and 23.
(5) Page 17, lines 5, 6 through 7, 18, 19, and 21.
(6) Page 18, lines 8, 12, 15, and 22.
(7) Page 19, lines 3 and 6.
(8) Page 21, lines 21 and 23.
(9) Page 25, lines 15 through 16.
(10) Page 25, lines 22 through 23.
(11) Page 27, line 18.
(12) Page 28, lines 4 and 5.
(13) Page 31, lines 11 and 15 through 16.
(14) Page 32, lines 4 and 11.
(15) Page 34, line 16.

On page 10, line 20, strike ''title.'' and insert ''title, or that the vehicle was a 'Federal salvage vehicle', 'Federal rebuilt salvage vehicle', 'Federal flood vehicle', or 'Federal nonrepairable vehicle'.''.

On page 11, line 15, strike ''vehicle.'' and insert ''vehicle, or if records readily available to the State indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol referred to in subsection (a).''.

On page 27, between lines 7 and 8, insert the following:

''(d) STATUTORY CONSTRUCTION.—Except as specifically provided in this chapter, nothing in this chapter is intended to affect any State law—

''(1) relating to the inspection or titling of, disclosure, or other action concerning salvage, rebuilt salvage, flood, or nonrepairable motor vehicles; or

''(2) that provides for more stringent protection of a purchaser of a used motor vehicle.

On page 32, strike lines 1 through 12 and insert the following:

(1) Section 30502(d)(3) of title 49, United States Code, is amended to read as follows:

''(3) whether an automobile known to be titled in a particular State—

''(A) is or has been a Federal nonrepairable vehicle, a Federal rebuilt salvage vehicle, or a Federal salvage vehicle; or

''(B) was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', or any other symbol or word of like kind, or that the vehicle has been damaged by flood.''.

(2) Section 30502(d)(5) of title 49, United States Code, is amended to read as follows:

''(5) whether—

''(A) an automobile bearing a known vehicle identification number has been reported as a Federal nonrepairable vehicle, a Federal rebuilt salvage vehicle, or a Federal salvage vehicle under section 30504 of this title; or

''(B) the vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', or any other symbol or word of like kind, or that the vehicle has been damaged by flood.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, October 2, 1998, at 10:00 a.m. in open session, to receive testimony on ballistic missile defense programs, policies, and related issues.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, October 2, 1998, at 10:00 a.m., 11:00 a.m. and 2:00 p.m. to hold three hearings.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Friday, October 2, 1998, at 9:00 a.m. for a hearing on the nominations of John Sepulveda, to be Deputy Director of the Office of Personnel Management, and Joseph Swerdzewski, to be General Counsel of the Federal Labor Relations Authority.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider pending business Friday, October 2, 1998, at 9:30 a.m., Hearing Room (SD–406).

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

COMMITTEE ON AGING

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on October 2, 1998 at 9:30 a.m. for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Friday, October 2, 1998, at 10:00 a.m. to hold a hearing in room 226, Senate Dirksen Office Building, on: ''International Antitrust Enforcement: How Well Is It Working?''

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

ADDITIONAL STATEMENTS

TRIBUTE TO COLONEL SAM ROBERTS, USAF (RETIRED)

● Mr. BURNS. Mr. President, I rise today in recognition of a great American patriot and fellow Montanan, Colonel Sam Roberts, U.S. Air Force, retired.

Colonel Roberts is a true American hero, who exemplifies the meaning of duty, honor and country. Today, in my

home state of Montana, Colonel Roberts will be honored at the University of Montana during an 80th anniversary ceremony for the Reserve Officer Training Corps (ROTC).

Colonel Roberts received many honors during his career. These awards include the Bronze Star, the Distinguished Flying Cross, two Air Medals and Commendation Awards from both the Army and the Air Force. In the 1960's, Colonel Roberts, who was assigned to the Strategic Air Command, briefed our Nation's leaders about the threats to our country and potential targets for the United States during the cold war.

Sam Roberts was a great leader of those under his command. His motto: ''Don't ask any of your men to do anything that you wouldn't do yourself or that you wouldn't show them how to do yourself,'' is a cornerstone that we should look for in the future leaders of our military.

I salute Colonel Sam Roberts, and his lovely wife, Kathleen, for the sacrifices they made during Sam's career and thank them for a job well done. I consider it an honor and privilege to call Sam and Kathleen Roberts my friends.●

STATEMENT ON THE DEATH OF GENE AUTRY

● Mrs. BOXER. Mr. President, I was saddened to learn of the death of Gene Autry, a longtime Californian, earlier this afternoon. Mr. Autry will always be remembered as a singer and performer of enormous talent and appeal. First making his way onto the radio airwaves in 1928 as a singer, his career quickly broadened to include acting. He appeared in such films as ''Tumbling Tumbleweeds'' in 1935 and television series as ''The Gene Autry Show'' between 1951–1954. Perhaps his most famous song, ''Rudolph the Red Nosed Reindeer'' will forever remind us of his zest for life and gentle charm each holiday season.

Mr. Autry succeeded in everything he undertook—radio, television, records, songwriting, movies, real estate, and business. In 1961, he bought the expansion Los Angeles Angels, renamed in 1965 as the California Angels. He maintained ownership of the team until the Walt Disney Company took operating control in 1996.

Over the course of his life, Mr. Autry collected Western memorabilia and art. In 1988, using much of his own funding, he opened the Gene Autry Western Heritage Museum in Los Angeles' Griffith Park. I cherish every opportunity I have to visit the Heritage Museum and view treasures from the Old West.

My most sincere condolences go out to Mrs. Autry and his entire family. Gene Autry will be missed by all, especially Californians who benefited tremendously from his works. I know that right now, the Singing Cowboy is ''Back in the Saddle Again,'' smiling down on us.●

HONORING CHALMERS WYLIE

● Mr. DEWINE. Mr. President, I rise today to pay tribute to the memory of former Representative Chalmers Wylie, who passed away on August 14, 1998, at the age of 77.

Chalmers Wylie was elected to the House of Representatives in 1966, and went on to serve thirteen distinguished terms. His career included service as Ranking Member of the House Banking, Finance, and Urban Affairs Committee.

Mr. Wylie dedicated his life to public service—and especially to the service of the people of Ohio's 15th district. While serving in the Army during World War II, he received the Purple Heart for wounds sustained while aiding fallen soldiers in Germany. In addition, he was awarded the Silver and Bronze Star, the Presidential Unit Citation with two oak-leaf clusters, the French Croix de Guerre and the Belgian Fourragere.

Undoubtedly, Mr. Wylie's war-time service provided him with a special understanding of the needs of veterans. This experience was particularly apparent in the House Veterans' Committee, where he fought for veterans and was instrumental in improving veteran access to medical care in Columbus, Ohio through the establishment of the Veterans' Affairs Outpatient Clinic.

Along with my distinguished colleague Senator GLENN, I am introducing legislation today to name the Department of Veterans' Affairs Outpatient Clinic, located at 543 Taylor Avenue in Columbus, Ohio, the ''Chalmers P. Wylie Veterans Outpatient Clinic.'' This is a companion bill to H.R. 4602, which was introduced by our distinguished House colleague Deborah Pryce, with the support of the entire Ohio delegation. I hope that my colleagues in the Senate will support the swift passage of this fitting tribute to our friend Chalmers Wylie, for his years of dedication to veterans, to Ohio, and to America.●

LET'S ENCOURAGE BROWNFIELDS DEVELOPMENT AND GET THE LITTLE GUY OUT OF SUPERFUND LITIGATION AT CO-DISPOSAL SITES

● Mr. LAUTENBERG. Mr. President, yesterday the Conferees on VA-HUD Appropriations decided to amend our nation's Superfund law.

At present, Superfund contains a limit on the liability of sureties who issue performance bonds to Superfund cleanup contractors. I was the author of that provision, which I introduced in 1990 as a free-standing Superfund bill (S. 3187). My bill was broadly supported by labor, environmentalists, and the American Insurance Association.

But, Mr. President, at the time the surety liability legislation was passed, certain Senators who doubted the limitation was necessary to increase the availability, and hence, competitiveness, of surety bonds, added a sunset provision.

During the VA-HUD Conference yesterday, the Conferees agreed to eliminate that sunset provision. The deletion has had broad-based, bipartisan support, and has appeared in each comprehensive Superfund reform bill introduced in this Congress.

I supported that amendment, Mr. President, but I want to underscore my distress at the manner in which the Conferees adopted the amendment.

Several months ago, I asked Senator CHAFEE to include two Superfund amendments on the agenda for an Environment and Public Works Committee business meeting before the end of the year—one pertaining to brownfields and the other to municipal solid waste (''MSW''). Senator CHAFEE rejected this request, based on his opposition to ''piecemeal'' Superfund reform, that is, anything less than a comprehensive overhaul of the entire Superfund statute—something that has eluded this body now for three consecutive Congresses, or six years.

I was therefore astonished that the surety amendment made its way into yesterday's VA-HUD Conference Report. I was especially surprised that Senator CHAFEE, as Chair of the authorizing Committee, signed off on this piece of Superfund reform on an appropriations bill, despite his repeated opposition to ''piecemeal'' reform, and the fact that this provision had not passed the House or the Senate as a stand-alone bill, and was not in either the House or the Senate VA-HUD bills.

Some argued that the surety amendment was merely technical in nature—that it simply perpetuated the opportunity for sureties to enjoy limited liability under Superfund.

Using that criterion, a brownfields liability exemption would also constitute nothing more than a technical fix—it would clarify that Congress did not intend Superfund liability to deter persons from purchasing and cleaning up brownfields properties. Nor would an MSW amendment—which would confirm that Congress did not intend persons who disposed of only household waste to be liable for cleanup of toxic waste.

The surety amendment has also been touted as non-controversial—having consistently enjoyed broad-based bipartisan support.

Mr. President, as I have stated on many occasions, and my esteemed colleagues must agree, brownfields and MSW liability exemptions can boast the same historic consensus. They have appeared in each of the comprehensive Superfund reform bills introduced by Republicans or Democrats since the 103rd Congress. And they have gained the support of all stakeholders, the Administration, and the national environmental community.

The brownfields and MSW fixes are minor, but they are crucial for successful brownfields development, or to relieve those subjected to unfair and unintended litigation. And they offer significant economic and environmental benefits. The nation's Mayors estimate they lose between $200 and $500 million a year in tax revenues from these properties sitting idle, and that returning these sites to productive use could create some 236,000 new jobs.

I am therefore honestly trying to understand what, if any, objective criteria exist for determining which small Superfund fixes will be made in this session.

When I consider yesterday's surety amendment, along with Senator LOTT's recycling proposal (S. 2180), I can find nothing that distinguishes sureties or recyclers from brownfields or MSW. There is virtually nothing that makes the surety's or recycler's needs more urgent than those of our cities in need of brownfields revitalization, and their taxpayers and residents, who want cleanup and redevelopment; or those of the homeowners and small businesses mired in litigation at landfill sites. And it certainly cannot be argued that brownfields or MSW have enjoyed any less broad-based support than have fixes for recyclers or sureties.

As a Senator from a state with literally thousands of brownfields sites, as well as altogether too many instances of homeowners and small businesses dragged into Superfund litigation by their corporate peers (and not by EPA), it is my responsibility to lobby for those communities and individuals who don't have lobbyists representing them here in the Congress. We, as their elected representatives, are their lobbyists. We are their voice. There is no reason in the world why this Senate, and this Congress, should not move forward to make the minor, non-controversial, and eminently sensible changes to Superfund law that impede brownfields development and rob small businesses of their hard earned profits.

Now, Mr. President, some of my colleagues have claimed that passage of brownfields or MSW amendments are anathema to comprehensive Superfund reform. Or some of my colleagues have argued that precisely because the brownfields and MSW amendments are so popular, and enjoy such broad ranging support, and provide such significant benefits to the nation, that they should be held hostage to comprehensive Superfund reform—that we should see if they will succeed in driving parties back to the table to negotiate comprehensive Superfund reform for the fourth consecutive Congress.

Mr. President, with all due respect, I think it is wrong to prevent enactment of legislation that enjoys broad support, and would reap acknowledged benefits, as a tactical matter to achieve unrelated goals. This disserves the public and adds to public cynicism. For a variety of reasons, efforts to radically change Superfund, the nation's toxic waste cleanup program, have failed for six years running. Toward the end of each of the past two Congresses, many Senators, including this Senator, have argued that we should move ahead with achievable reforms that are non-controversial and permit our people, our communities, and our economy to benefit from their enactment. Today, as we head into the final week of this Congress, I make the same plea. Just as holding recyclers or sureties hostage to comprehensive Superfund reform has not gotten us any closer to producing an acceptable product that the President could sign, so holding brownfields development and persons who disposed of household trash hostage to other legislative goals is a failed strategy. It will not mitigate the controversy intrinsic to the broader issues raised by comprehensive legislation. But it will rob communities across the country of the jobs and tax ratables that flow from revitalized brownfields and will impose severe penalties on the individuals and small businesses caught up in a litigation nightmare through no fault of their own.

Mr. President, I call upon my esteemed colleagues to move brownfields and MSW amendments before this Congress ends. I believe otherwise we will all have a hard time explaining, when we return to our home states in October, why sureties and recyclers merited this body's attention, but our communities and our taxpayers and our small businesspeople were somehow less worthy.●

ANNIVERSARY OF THE COUNCIL FOR RESPONSIBLE NUTRITION

● Mr. HATCH. Mr. President, I rise to offer my congratulations to the Council for Responsible Nutrition (CRN), which is now celebrating its 25th anniversary.

For over a quarter of a century, the members of CRN have been working to enhance the public's health by promoting wise dietary choices and the appropriate use of nutritional supplements. CRN's work with federal legislators and policy makers has helped to ensure that consumers have access to a variety of quality nutritional products and to accurate information about the health benefits of these products.

Over 100 million Americans are using dietary supplements daily. There is ample—and growing—scientific evidence that dietary supplements can help promote good health. To cite but one example, for many years, we have known that use of folic acid during pregnancy can reduce the risk of birth defects. Now it appears it can help prevent heart disease as well.

One of the most significant achievements of which I have been a part, as a Senator for the last 22 years, has been the passage of the Dietary Supplement Health and Education Act (DSHEA) of 1994. I worked closely with the CRN in passing this bill, and I am extremely grateful to them for their insights and expertise, which were integral to the success of this endeavor.

I am pleased to have had such a positive relationship with CRN and look forward to working with this fine Association for many years in the future to help Americans live healthier lives. Again, my congratulations to the Council for Responsible Nutrition.●

OCEAN SHIPPING REFORM ACT

● Mr. BREAUX. Mr. President, last night, after several years of effort, the Senate passed S. 414, the Ocean Shipping Reform Act, and I strongly urge the President to sign this important piece of legislation into law.

The Ocean Shipping Reform Act of 1998 modifies our existing shipping regulatory scheme by bringing it up to date with the industry as it operates today. It provides more flexibility for carriers and shippers to agree on transportation arrangements. It authorizes the privatized publication of rate information. It gives individual carrier conference members more leeway in taking independent actions and in entering service contracts, and thus makes the current system more competitive.

Yet the bill also preserves the basic system and principles of common carriage, and maintains protections for ocean transportation users against unfair or unreasonable actions by transportation providers. Importantly, S. 414 preserves the Federal Maritime Commission as an independent regulatory agency, which is vitally important as that agency enforces this program while it additionally ensures that our trades remain free from restrictive foreign shipping practices that impede our oceanborne foreign commerce.

The reason this bill was so long in coming is that the Senate took great care to make the legislative process an open one. I was critical of shipping legislation passed in the other body three years ago, because it did not reflect the diversity of concerns reflected in the broad spectrum of shipping interests. It was, as I noted at a Commerce Committee hearing, ''conceived in darkness.'' By contrast, the legislation ultimately agreed to by both the House and Senate is truly a compromise, in which all industry interests were heard from and all sectors had input. No one got everything they wanted in this legislation, and no one's interests were completely disregarded. This legislation is a carefully crafted balance of the many interests at stake. When it was necessary, members of all segments sat down and negotiated a compromise. Not everyone is completely pleased with all aspects of the legislation, but it is incumbent upon us to move forward.

I would also like to take this opportunity to thank a number of members of both the House and Senate for their efforts on this bill including; Congressmen SHUSTER, OBERSTAR, GILCHREST

and CLEMENT in the House, and Senators MCCAIN and HOLLINGS, the Subcommittee Chairwoman Senator HUTCHISON and of course, Senator LOTT in the Senate. I would also like to thank Jim Sartucci of Senator MCCAIN's staff and my counsel, Carl Bentzel, for their long hours of hard work and industry constituent service as they pieced this bill together. Without the efforts of Senate staffers, Amy Henderson, Jeanne Bumpus and Carl Biersack, and Mark Ashby of my staff, and House staffers John Cullather and Rebecca Dye we would not have been able to move this bill. I would also commend the FMC for its objective assessments and contributions to this project, particularly FMC Chairman Hal Creel, General Counsel Tom Panebianco and Legislative Counsel Dave Miles. When we needed expertise, they provided us with help.

I am particularly pleased that the Federal Maritime Commission will continue its mission as a nonpartisan, independent agency. The Commission, under Chairman Hal Creel, and with fellow Commissioners Ming Hsu, Joe Scroggins and Del Won, has done an excellent job administering our shipping laws in a firm but even-handed manner. I urge the FMC to keep up the good work, and to keep Congress informed of how the new legislation is working. I am particularly interested in whether the protections afforded the smaller shippers and intermediaries against unreasonable practices prove to be sufficient. To this end, I ask that the FMC pay particular attention to these parties' concerns about the new law and advise us of any recommended amendments to the legislation that may prove to be in order.

Again, I encourage the President to sign the Ocean Shipping Reform Act of 1998 into law.●

AMENDMENT TO VARIOUS REGULATIONS OF THE COMMITTEE ON RULES AND ADMINISTRATION

● Mr. WARNER. Mr. President, I would like to give notice to Members and staff of the Senate that the Committee on Rules and Administration has approved amendments to four Committee regulations, as noted below.

A. Committee Regulations Governing Franked Mail were amended by adding the following:

In section 8 (c), add the phrase ''in excess of 500 notices per town meeting'' after the phrase ''Town meeting notices'', so that it reads ''Town meeting notices in excess of 500 notices per town meeting may not be sent fewer than 60 days immediately before the date of any primary or general election (whether regular, special, or runoff) for any Federal, State, or local office in which a Member of the Senate is a candidate for election, unless the candidacy of the Senator in such election is uncontested.

EXPLANATION: The statutory prohibition on mass mailing (2 USC 3210) prohibits mailings in excess of 500 and completely exempts town meeting notices from this restriction. However, Committee regulations prohibited the use of town meeting notices during the 60 day period before a primary or general election regardless of the number of such notices that might be sent. This created the anomaly that a member may send less than 500 letters which include notice of a town meeting but may not send a simple, and less costly, town meeting notice. This amendment will permit town meeting notices less than 500 in number during the 60 day moratorium period.

A copy of the Committee Regulations Governing Franked Mail, as amended, is at attachment A.

B. Committee Public Transportation Subsidy Regulations for the United States Senate were amended by substituting as follows:

Substitute $40 for $21 in the first sentence of section 2 of so that it reads ''. . .a value not exceeding $40.00 per month.''

EXPLANATION: Committee regulations implementing the Tax Reform Act of 1986 authorize $21 per month as a tax free ''de minimis fringe benefit'' for employees using public transportation. This amount has not been increased since 1992. This amendment increases the benefit to $40, which approximates the average subsidy given by federal agencies within the DC area.

A copy of the Committee Public Transportation Subsidy Regulations, as amended, is at attachment B.

C. Committee Regulation For The Display Of Flags and State Seals In the Hallways Outside Senators' Offices was amended by deletion and substitution as follows:

Delete current paragraph one and substitute the following: Two wooden flagpoles, 8 feet in heights by 1–5/32'' in diameter, mounted in bright brass finished stands weighing at least 15 pounds, for flying 3 foot by 5 foot state and United States flags, at the Senator's option, are permitted in the hallway outsides a Senator's office. The flagpoles and stands must be placed inside the office at night.

EXPLANATION: Committee regulations currently permit only one flag, either the United States or individual state flag, to be flown outside a member's office. This amendment will permit the flying of both the United States and the individual state flags outside a member's office.

A copy of the Committee Regulation For The Display Of Flags and State Seals In the Hallways Outside Senators' Offices, as amended, is at attachment C.

D. Committee Regulations Governing Advance Payments were amended by adding new section (k) as follows:

(k) state office rents, up to 1 year in advance

EXPLANATION: Committee regulations permited advance payment of numerous obligations but did not include advance payments for state office rents. This amendment authorizes a 1 year advance payment for state office rents to facilitate the processing of rent vouchers in a timely manner, consistent with good business practices.

A copy of the Committee Regulations Governing Advance Payment, as amended, is at attachment D.

I ask that the regulations be printed in the RECORD.

The Regulations follow:

ATTACHMENT A

REGULATIONS GOVERNING OFFICIAL MAIL

(Adopted by the Committee on Rules and Administration, United States Senate, October 30, 1997; Amended on September 30, 1998)

DEFINITIONS

SEC. 1. As used in these regulations—

(a) the term ''election fiscal year'' means a Federal fiscal year in which regular biennial general elections of Senators are held;

(b) the term ''final printing and mailing clearance'' means an approval of a blue line, color key, or other page proof giving final authorization to print and mail material submitted by a Senate office to the Sergeant at Arms;

(c) the term ''franked mail'' as defined in section 3201(4) of title 39, United States Code means: ''. . . mail which is transmitted in the mail under a frank.''

(d) the term ''mass mailing'' as defined in section 3210(a)(6)(E) of title 39, United States Code, as amended by the Legislative Branch Appropriations Act, 1995 (P.L. 103-283) means: ''. . . with respect to a session of Congress, a mailing of more than five hundred newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), but does not include any mailing—(i) of matter in direct response to a communication from a person to whom the matter is mailed; (ii) to other Members of Congress, or to Federal, State, or local government officials; or (iii) of a news release to the communications media; or (iv) of a town meeting notice, but no such mailing may be made fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) for any Federal, State, or local office in which a Member of the Senate is a candidate for election, or (v) of a Federal publication or other item that is provided by the Senate to all Senators or made available by the Senate for purchase by all Senators from official funds specifically for distribution.'' With respect to (i), a franked mailing made specifically and solely in response to, and mailed not more than 120 days after the date of receipt of a written request, inquiry, or expression of opinion or concern from the person to whom it is addressed is not a mass mailing. S.Res. 212 (101st Congress)

(e) the term ''name addressed mail'' means any mailing sent to named individuals at specific addresses;

(f) the term ''newsletter'' means any professionally photocomposed mailing consisting of documents which set forth, in textual and graphic form (or both), factual information and commentary on prospective, pending, or past issues of public policy;

(g) the term ''non-election fiscal year'' means a Federal fiscal year other than an election fiscal year;

(h) the term ''postal patron mail'' means any mailing prepared and mailed pursuant to section 3210(d) of title 39, United States Code;

(i) the term ''official mail costs'' means the equivalent of—

(1) postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege; and

(2) the portions of the fees and charges paid for handling and delivery by the Postal Service of mailgrams considered as franked mail under section 3219 of title 39, United States Code; and

(3) and all other official mail other than the franking privileged as defined in section 58(a)(3)(B) and (C) of title 2, United States Code.

(j) the term ''opinion survey'' means any assemblage of mass mailings and related individual mailings, including, but not limited to, survey questionnaires, pre-survey letters, response forms, follow-up letters, and instructions that are sent to a sample group of individuals for the purpose of obtaining a reliable estimate of the opinion of the population from which the survey sample is drawn and are processed in accordance with the ''Guidelines for Opinion Surveys'' issued by the Committee on Rules and Administration in September 1979.

(k) the term ''Senate office'' means the Vice President of the United States, a United States Senator, a United States Senator-elect, a committee of the Senate, the Joint Committee on Printing, the Joint Economic Committee, an officer of the Senate, or an office of the Senate authorized by section 3210(b)(1) of title 39, United States Code, to send franked mail.

(l) the term ''town meeting notice'' means any mailing which relates solely to a notice of the time and place at which a Senator or a member or members of his or her staff will be available to meet constituents regarding legislative issues or problems with Federal programs. The notice may include a short description as to the subject matter or purpose of the town meeting and an official photo in the banner of the notice.

(m) the term ''prepared'' means all necessary preparation prior to mailing; including the production of additional copies of a mailing, the folding of the mailing, and inserting of the mail into envelopes.

POSTAL ALLOCATIONS FOR NON-ELECTION FISCAL YEARS

SEC. 2. (a) With respect to a nonelection fiscal year, as soon as practicable after the enactment of the appropriation for Senate franked mail costs for such year, the Committee on Rules and Administration shall determine the following amounts:

(1) The amount that has been appropriated for franked mail costs of the Senate for the nonelection fiscal year.

(2) The amount necessary to be reserved for contingencies, which shall not exceed 10 percent of the amount determined pursuant to paragraph (1).

(3) The amount necessary for franked mail costs of Senate offices other than Senators for the nonelection fiscal year.

(4) The amount necessary for each Senator to send one State-wide postal patron mailing, based on total addresses in each state.

(5) 1/3 of the amount appropriated in (2)(a)(1), after deducting the amount necessary for contingencies and offices other than Senators.

(6) The amount which may be available for allocation to Senators, when the amount in (2)(a)(5) and amounts in (2)(a)(2) and (2)(a)(3) are subtracted from the amount appropriated for official mail paragraph (2)(a)(1).

(7) The factor to be used to equitably distribute remaining appropriated funds, determined by dividing the amount in paragraph (2)(a)(6) by the sum of the amounts in paragraph (2)(a)(4).

(b) As soon as practicable after making the determination described in section (a), the Committee on Rules and Administration shall make the following allocations:

(1) The allocation to Senate offices (other than a Senator personal's office) for the nonelection fiscal year

(2) The allocation for contingencies,

(3) The allocation to each Senator—

(A) to include the amount determined subsection (2)(a)(5), divided by 100, establishing the base amount for each office plus,

(B) the amount to be allocated to each Member, determined by multiplying each amount in (2)(a)(4) by the prorated percentage determined in subsection (2)(a)(7).

POSTAL ALLOCATIONS FOR ELECTION FISCAL YEARS

SEC. 3. (a) With respect to an election fiscal year, as soon as practicable after the enactment of the appropriation for Senate franked mail costs for such year, the Committee on Rules and Administration shall determine the following amounts:

(1) The amount that has been appropriated for franked mail costs of the Senate for the election fiscal year.

(2) The amount necessary to be reserved for contingencies, which shall not exceed 10 percent of the amount determined in paragraph (3)(a)(1).

(3) For the election fiscal year, the amount necessary for franked mail costs of Senate offices other than Senators and Senators-elect.

(4) 1/3 of the amount appropriated in (3)(a)(1), after deducting the amount necessary for contingencies and offices other than Senators.

(5) The amount which may be available for allocation to Senators, for an election fiscal year, when the amount in (3)(a)(4), and the amounts in (3)(a)(2), and (3)(a)(3) are subtracted from the amount appropriated for official mail, paragraph (3)(a)(1).

(6) For the period beginning on the date immediately following the date of the general election and ending January 3 of the election fiscal year, 10 percent of two-twelfths of the full funding amount necessary for each Senator-elect to send one state-wide postal patron mailing.

(7) For the period January 3 through September 30 of the election fiscal year, 75 percent of the full funding amount necessary for each newly-elected Senator to send one state-wide postal patron mailing.

(8) For the period October 1 through January 3 of the election fiscal year, 25 percent of the full funding amount necessary for each Senator whose service as a Senator will end on January 3 of the election fiscal year to send one state-wide postal patron mailing.

(9) For the period January 3 through April 3 of the election fiscal year, 10 percent of 25 percent of the full funding amount necessary for each Senator whose service as a Senator will end on January 3 of the election fiscal year to send one state-wide postal patron mailing.

(10) For the election fiscal year, the full funding amounts necessary for each Senator, other than those Senators whose terms of service as Senators will begin or end on January 3 of the election fiscal year, to send one state-wide postal patron mailing.

(11) The factor to be used to equitably distribute remaining election fiscal year appropriated funds, determined by dividing the amount in paragraph (3)(a)(5) by the sum of the amounts in paragraph (3)(a)(6) through (3)(a)(10).

(b) As soon as practicable after making the determination described in subsection (b), the Committee on Rules and Administration shall make the following allocations:

(1) The allocation to a Senate office (other than a Senator or Senator-elect) for the election fiscal year.

(2) The allocation for contingencies,

(3) The allocation to each Senator—

(A) to include the amount determined in subsection (3)(a)(4), divided by 100, establishing the base amount for each office (¾ of the individual amount to Senators-elect, and ¼ to departing Senators), plus,

(B) the amount determined in (3)(a)(5), allocated;

(i) To each Senator referred to in (3)(a)(6), adjusted by the amount determined in (3)(a)(11).

(ii) To each Senator referred to in (3)(a)(7), adjusted by the amount determined in (3)(a)(11).

(iii) To each Senator referred to in (3)(a)(8), adjusted by the amount determined in (3)(a)(11).

(iv) To each Senator referred to in (3)(a)(9), adjusted by the amount determined in (3)(a)(11).

(v) To each Senator referred to in (3)(a)(10), adjusted by the amount determined in (3)(a)(11).

USES OF FUNDS RESERVED FOR CONTINGENCIES

SEC. 4. The amounts described in sections 2(a)(2) and 3(a)(2) shall be available for distribution by the Committee on Rules and Administration only for—

(a) providing a Senator appointed to complete the term of a Senator who dies or retires with an allocation for the fiscal year in which such appointment is effective;

(b) providing the Secretary of the Senate with sufficient postage to send franked mail as provided for by section 3218 of title 39, United States Code; and

(c) reimbursing a Senator for a charge to the Senator's allocation for franked mail costs when the charge is the result of an error on the part of an office of the Sergeant at Arms.

COST DETERMINATION AND REPORTING

Franked Mail, Mass Mail, Mail Prepared Pursuant to Section 9 of these Regulations

SEC. 5. (a)(1) The postage on all franked mail shall be determined by the Senate Customer Service Records Section and reported to the U. S. Postal Service. State offices must advise their D.C. offices of their frank mail counts on a monthly basis. By the 5th of each month, the D.C. offices will inform the Service Department of these counts. Timely and accurate reports are required to ensure proper accounting of franked mail.

(2) Not more than 250 extra copies of a mass mailing printed with the frank may be returned to an office for distribution in reception rooms and at town meetings. Additional copies, printed without the frank, may be requested on a separate work order.

(3) No mass mailing and no mailing prepared pursuant to section 9 shall be mailed until the density analysis, indicating the total number of pieces to be mailed and the locations to which they will be mailed, has been approved by the office for which the mail is being sent. Such approval shall be signified by signing a statement of approval on the density analysis sheet. The approved copy of the density analysis shall be retained by the Customer Service Records Section with the work order and a copy of the mail matter.

(4) Before processing a request for a mass mailing submitted by a Member office, the Sergeant at Arms shall determine: (1) the postage cost of the mailing, and (2) that the postage cost of the request, when added to costs incurred or encumbered for mass mailings by that Member in the fiscal year, will not exceed the amount ($50,000) allowed for mass mailings by each Member each fiscal year. (P.L. 103–283) If the requested mailing exceeds that amount, the Sergeant at Arms shall notify the Member and take no further action on the request.

Record Keeping

(b)(1) The Sergeant at Arms shall maintain records of the following information for each Senate office to which postage allocations are applicable.

(A) The amount of the allocation for franked mail costs.

(B) Each amount of franked mail cost determined pursuant to this section.

(C) The amount of the allocation for franked mail costs for such Senate office which remains after the amounts described in paragraph (B) is added to or subtracted from, as appropriate, the amount described in paragraph A.

(2) The Sergeant at Arms shall provide offices with monthly reports on the status of their postal allocations.

(3) The Sergeant at Arms shall provide to each Member a monthly report detailing the postage costs associated with franked mailings and mass mailings, and shall provide the office of the Financial Clerk of the Senate a monthly certification of franked mailing and mass mailing costs for each Member. The Financial Clerk of the Senate shall debit these costs from the respective expense accounts for such franked mailing and mass mailing, and issue a check in payment.

Publication of Mass Mail Costs

(c) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senate office a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senate office during such quarter. The statement shall provide information regarding the cost of postage and paper and other costs, and shall distinguish the costs attributable to mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Senate Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. Such summary tabulation shall set forth for each Senate office the following information: the Senate office's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and, in the case of Senators, the cost of such mail divided by the total population of the State from which the Senator was elected, and the total number of pieces of mass mail divided by the total population of the State from which the Senator was elected, and the allocation made to each Senator from the appropriation for official mail expenses.

PREPARATION OF OFFICIAL MAIL

SEC. 6. (a) All mass mailings shall be submitted to and mailed by the Sergeant at Arms and shall be charged against the Senator's Official Personnel Office Expense Account, pursuant to the Legislative Branch Appropriations Act, 1995 (P.L. 103–283). All mailings are to be presented to the Sergeant at Arms for accountability prior to mailing. Such mailings shall not exceed total postage cost of $50,000 in any fiscal year, and must adhere to all regulations pertaining to mass mailings.

Two Sheet Limit

(b) A mass mailing by a Senator shall not exceed 2 sheets of legal size paper (or their equivalent), including any enclosure that—

(1) is prepared by or for the Senator who makes the mailing; or

(2) contains information concerning, expresses the views of, or otherwise relates to the Senator who makes the mailing.

Taxpayer Expense Notice

(c) Each mass mailing by a Senate office shall contain the following notice in a prominent place on the bottom of the cover page of the document: ''PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE.'' The notice shall be printed in a type size not smaller than seven point.

Mail to be Mailed under the Frank

(d) All mass mailings by Senate offices shall be mailed under the frank.

Mail to be Mailed by the Sergeant at Arms.

(e) The following mail matter shall be mailed through the Sergeant at Arms—

(1) All mass mailings by Senate offices, whether printed on the Sergeant at Arms high speed laser printers or elsewhere.

(2) All mail prepared pursuant to section 9 of these regulations.

Town Meeting Notices

(3) Town meeting notices shall be processed as postal patron mail, unless sending name addressed mail to selected persons in the area served by the town meeting would be more economical, or the town meeting is to be on a subject or subjects that would not be of interest to all the people who would receive a postal patron mailing. Town meeting notices may not be mailed in franked envelopes.

(4) All franked and mass mail sent from D.C. offices, including flats and parcels, and constituent response mail and comparable mail prepared through an offices' Office Automation System shall be picked up by the Senate Post Office and delivered by the Senate Post Office to the Sergeant at Arms.

(5) Constituent response mail mailed through the Sergeant at Arms shall be sorted and bundled by zip code and endorsed with the most economical rate unless otherwise specified by the Senator for whom the mail is mailed. Senators may specify that such mail be endorsed ''AUTO PRESORT'' or ''BLK. RATE.''

Survey Questionnaires

(f) Mass mailings, other than opinion surveys, shall not contain franked response cards or forms. Any mass mailing containing a questionnaire shall contain instructions to the recipients on how to properly return their responses.

Rates and Endorsements

(g) (1) Name addressed mass mailings shall be sent at the lowest postal rate for which the mail qualifies, unless the office for whom the mail is being mailed directs, in writing, that it be mailed at a higher rate.

(2) Bulk rate mail will have no endorsement other than ''BLK RATE'' or ''AUTO PRESORT.''

Pictures of Missing Children

(h)(1) Unless (i) a Senator, committee chairman, or other office head for whom a mass mailing or automated mail system mailing is being sent directs that such picture and information not be printed on a particular mailing, or (ii) the Sergeant at Arms finds, with respect to any or all of the mass mailings in a period of time, that the printing of such pictures and information will significantly slow the processing of the mail, all mass-mailings that are mailed as self-mailers shall bear on the address panel a picture of and information about a missing child in accordance with this subsection, and all letters prepared, folded, inserted in envelopes, and mailed by the Sergeant at Arms shall be inserted in window envelopes bearing the picture of and information about the same missing child whose picture appears on mass mailings during the same work-week. No other official mail of the Senate shall be used for the mass dissemination of pictures of, and information about, missing children.

(2) Only pictures of, and information about, missing children that are provided by the National Center for Missing and Exploited Children (hereinafter in this section referred to as the Center) are to be printed on mass mail and envelopes subject to this section. The Sergeant at Arms shall be the liaison with the Center for obtaining such pictures and information.

(3) The Sergeant at Arms and the Director of the Center or his or her designee shall make arrangements for the Sergeant at Arms to periodically receive photographs of and information about a missing child for each State from which the Center has such photographs and information.

(4) The pictures of, and information about, missing children shall be made part of the printing plates prepared for mailings subject to this section. To the greatest extent possible, mail prepared for a Senator shall bear the photograph of, and information about, a missing child from the Senator's State.

(5) Whenever information is received from the Center that a child has been found whose picture and information are currently being printed on Senate mail, the Sergeant at Arms shall determine whether or not printing plates currently in use or awaiting use shall be discarded and new plates prepared. Whenever information is received from the Center that a child has been found whose picture and information were previously printed on Senate mail, the Sergeant at Arms shall notify offices on whose mail such picture and information were printed, and such offices shall destroy any extra copies of such mail that are on hand.

(6) The Sergeant at Arms shall transmit to the Center at the end of each month a list of the mass mailings and automated mail system letters mailed that month indicating for each mailing the State to which mailed, the number of pieces, and the child whose picture appeared thereon.

ORANGE BAG MAIL AND EXPRESS MAIL

Orange Bag Mail

SEC. 7. (a) Orange bags are used by offices only for intra-office mail from Washington, D.C. to State offices. These bags are charged at priority rates. (Orange bags used by state offices are only for transportation of franked mail to the Post Office).

Express Mail

(b) The frank may not be used for express mail. Expenses for non-frankable official mail, such as Express mail, Overseas mail, Registered and Certified mail, etc., may be defrayed from any source of funds only as provided by subsections (d) and (I) of section 311 of the Legislative Branch Appropriations Act of 1991, Public Law 101–520. Offices are advised that the Senate Post Office has created a system through which offices may present express mail, together with an authorization card similar to the cards used to purchase office supplies from the Keeper of Stationery, and have the cost of the express mail charged to the office's official office expense account. Offices choosing to use express mail originating outside Washington may establish commercial accounts with the U.S. Postal Service instead of pre-paying each mailing.

RESTRICTION ON THE USE OF MASS MAIL AND TOWN MEETING NOTICES PRIOR TO A PRIMARY OR BIENNIAL FEDERAL GENERAL ELECTION

SEC. 8. (a) No Senator may send mass mailings during the period beginning 60 days before the date of any biennial Federal general election. The 60-day pre-election moratorium on mass mailings does not apply to a committee when such mass mailings are mailed under the frank of the Chairman and relate to the normal and regular business of the committee.

Use of mass mail by Senators who are candidates is further restricted (unless the Senator's candidacy has been certified as uncontested pursuant to procedures of the Committee on Rules and Administration):

(b) Mass mailings may not be sent fewer than 60 days immediately before the date of

any primary or general election (whether regular, special, or runoff) for any Federal, State, or local office in which a Member of the Senate is a candidate for election, unless the candidacy of the Senator in such elections is uncontested.correctmail

(c) Town meeting notices in excess of 500 notices per town meeting may not be sent fewer than 60 days immediately before the date of any primary or general election (whether regular, special, or runoff) for any Federal, State, or local office in which a Member of the Senate is a candidate for election. There is no exception for uncontested candidacies (P.L. 103-283).

(d) Solicitation forms provided by a Member through a mass mailing which are intended to be mailed back by constituents, may not be responded to during the 60 days immediately before the date of any primary or general election (whether regular, special, or runoff) for any Federal, State, or local office in which a Member of the Senate is a candidate for election.

RESPONSES TO ORGANIZED MAIL CAMPAIGNS

SEC. 9. (a) Whenever a Senator determines that he or she is the recipient of mail generated by an organized mail campaign and that the resources of his or her office are not sufficient to enter the names and addresses into the offices' mail management system, the Senator may use the services of commercial vendors under contracts approved by the Committee on Rules and Administration. This service converts names and addresses to machine readable media which then may be added to such Senator's mail management system. The Sergeant at Arms has the responsibility for the processing and administrative support for this service.

(b) Expenses for work performed in accordance with this section shall be paid from funds from a Senator's Official Personnel and Office Expense Account and shall be reported to offices with their quarterly mass mail cost reports required by section 5(c).

CHANGE OF ADDRESS PROGRAMS

SEC. 10. Offices may have names and address on their mail files processed through the National Change of Address (NCOA) Program. A Senator may use any of the vendors certified by the U. S. Postal Service to provide NCOA service. A current list of vendors can be obtained from the Senate Computer Center. Processing costs charged by the NCOA vendor and transportation costs charged by the delivery service shall be billed to, and paid by, such Senator from his or her Official Personnel and Office Expense Account.

(a) Such Senator shall request the Senate Computer Center to prepare his or her mail file for shipment to the vendor selected by the Senator, using the delivery service selected by the Senator. A Sergeant at Arms ''Request for Assistance'' form shall be used for this purpose, and shall include a statement in the following format:

Processing and shipping costs will be paid by the Office of Senator _____ (insert name). Bills are to be submitted to _____ (insert address).

_____
Senator's Signature

(b) The Senate Computer Center will provide the Senator with information about the mail file that will assist the Senator in estimating processing costs that will be incurred. Please contact the Sergeant at Arms for other options regarding change of address.

(c) The Computer Center will prepare the Senator's file for processing, and arrange for transportation, using the delivery service designated by the Senator. The NCOA vendor and the delivery service will be provided with copies of the ''Request for Assistance'' for their use in billing the Senator for their services. On receipt of the corrected file from the NCOA vendor, the Senate Computer Center will restore it to the Senate Mail File System or provide the updated file to the appropriate vendor.

PAPER AND ENVELOPE ALLOWANCES

SEC. 12. (a)(1)(A) Each year the Secretary of the Senate shall provide each Senator with the greater of—

(i) one and one-third sheets of blank paper per adult constituent, as reported by the Bureau of the Census; or

(ii) 1,800,000 sheets of blank paper.

(B) Each year the Secretary of the Senate shall provide each Senator with letterhead paper and envelopes in the greater of the following quantities:

(i) 100 sheets and 100 envelopes per 1,000 constituents of the Senator; or

(ii) 180,000 sheets and 180,000 envelopes.

(2) A portion of a Senator's allowance for paper that is unused at the end of a year may be used during the following year but lapses at the end of that year and shall not be available for use thereafter.

(3) A portion of a Senator's allowance for paper that is unused at the time the Senator resigns, retires, or otherwise leaves office shall lapse and shall not be available for use thereafter.

(4) No portion of the paper allowance of a Senator may be given or otherwise transferred to another Senate office.

(b) (1) Each year the Secretary of the Senate shall provide each office set forth below with 180,000 sheets of blank paper, 180,000 sheets of letterhead paper, and 180,000 envelopes:

(A) Each standing committee of the Senate.

(B) Each select committee of the Senate.

(C) Each special committee of the Senate.

(D) Each impeachment trial committee of the Senate.

(2) A portion of an allowance for paper made pursuant to paragraph (1) that is unused at the end of a year shall not be available for use thereafter.

(c) (1) The Secretary of the Senate shall provide each of the following offices with such quantities of paper and envelopes as may be necessary for the performance of its official duties:

(A) The Joint Committee on the Library.

(B) The Joint Committee on Printing.

(C) The Joint Committee on Taxation.

(D) The Joint Economic Committee.

(E) The President of the Senate.

(F) The President pro tempore of the Senate.

(G) The Majority Leader of the Senate.

(H) The Assistant Majority Leader of the Senate.

(I) The Secretary for the Majority.

(J) The Minority Leader of the Senate.

(K) The Assistant Minority Leader of the Senate.

(L) The Secretary for the Minority.

(M) The Republican Conference.

(N) The Republican Policy Committee.

(O) The Republican Steering Committee.

(P) The Democratic Conference.

(Q) The Democratic Policy Committee.

(R) The Democratic Steering Committee.

(S) The Architect of the Capitol, including the Senate Restaurants and the Superintendent of the Senate Office Buildings.

(T) The Attending Physician.

(U) The Capitol Police.

(V) The Chaplain of the Senate.

(W) The Secretary of the Senate, including all offices reporting thereto.

(X) The Senate Legislative Counsel.

(Y) The Senate Legal Counsel.

(Z) The Senate Sergeant at Arms, including all offices reporting thereto.

(AA) The Congressional Budget Office.

(BB) The Democratic Senatorial Campaign Committee.

(CC) The Republican Senatorial Campaign Committee.

(DD) The Senate Employees' Federal Credit Union.

(EE) The Senate Day Care Center.

(FF) The Senate Defense Liaison Office.

(HH) The Senate Press Galleries.

(2) Except as provided in paragraph (3), no portion of an allowance for paper made pursuant to paragraph (1) may be given or otherwise transferred to a Senator or an office named in subsection (b)(1).

(3) Paper from the allowance of the Sergeant at Arms may be used to reprint matter previously printed and charged to the allowance of another office if—

(A) an error in the previously printed matter was caused by the Sergeant at Arms; and

(B) (i) the previously printed matter was destroyed prior to distribution; or

(ii) the previously printed matter was distributed before the discovery of the error, and the reprinted matter is noted as a corrected version of such previously printed matter.

(d) For the purposes of this section—

(1) blank paper means paper that is 8.5 inches by 11 inches or 8.5 inches by 14 inches; and

(2) letterhead paper means paper that is 8.5 inches by 11 inches.

(e) For the purposes of this section, the term ''year'' means the period beginning on January 3 of a calendar year and ending on January 2 of the following year. Paper for any mass mailing the work order for which is submitted prior to the close of business of the Sergeant at Arms on January 2 of any year shall be charged to the allotment for such year ending on January 2 (or, in the case of Senators, to any remaining balance from the previous year) if the office for which the mass mailing is being prepared gives the Sergeant at Arms, by its close of business the following February 14, a final printing and mailing clearance. If final clearance for printing is not given by close of business on February 14, the work order for such work shall be canceled and, if the office still desires to have the work completed, a new work order shall be prepared and the paper charged to the year in which such work order is dated (or, in the case of Senators, to any remaining balance from the previous year). Costs incurred in processing a work order that is canceled because the final clearance for printing was not received prior to close of business February 14 shall be reported in the cost report for the quarter ending March 31.

PRINTING OF LETTERHEAD STATIONERY AND ENVELOPES

SEC. 13. (a) The return address on envelopes to be used with franked mail must bear the nine-digit zip code of the office sending the mail.

(b) Envelopes with Senators' return addresses and nine-digit zip codes shall not be used for mail from committees. Envelopes with committee return addresses and nine-digit zip codes shall not be used for mail from Senators' offices.

(c) Senators' letterhead stationery and envelope allowances may be used for personal office letterhead stationery and envelopes and committee letterhead stationery. Such allowances shall not be used for committee envelopes.

(d) Paper used for the following purposes shall not be charged to an office's paper allowance—

(1) Mailings that relate solely to a notice of appearance or scheduled itinerary of a Senator in the State represented by the Senator and which is mailed to the part of the State where such appearance is to occur.

(2) ''Dear friend'' letters or post cards processed in accordance with section 9 of these regulations.

(3) Non-personalized Senate letterhead stationery used for automated mail system letters printed on the Sergeant at Arms high speed laser printers.

(e) Committee envelopes may bear only the frank of the chairman or the ranking minority member, the name and address of the full committee, including the nine-digit zip code of the committee, and ''Official Business'' or ''Public Document.''

Approved by Chairman and Ranking Member.

Date: 9/30/98.

ATTACHMENT B

APPENDIX A. PUBLIC TRANSPORTATION SUBSIDY REGULATIONS

(Committee on Rules and Administration, United States Senate, effective August 1, 1992, Amended on September 30, 1998)

SEC. 1. POLICY

It is the policy of the Senate to encourage employees to use public mass transportation in commuting to and from Senate offices.

SEC. 2. AUTHORITY

The Tax Reform Act of 1986 allows employers to give employees as a tax free ''de minimis fringe benefit'' transit fare media of a value not exceeding $40.00 per month. The Fiscal Year 1991 Treasury-Postal Appropriations Act (Pub. L. 101-509) allows Federal agencies to participate in state or local government transit programs that encourage employees to use public transportation.

SEC. 3. DEFINITIONS

(a) Public Mass Transportation—A transportation system operated by a State or local government, e.g. bus or rail transit system.

(b) Fare Media—A ticket, pass, or other device, other than cash, used to pay for transportation on a public mass transit system.

(c) Office—Refers to a Senate employee's appointing authority, that is, the Senator, committee chairman, elected officer, or an official of the Senate who appointed the employee. For purposes of these regulations, an employee in the Office of the President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority shall be considered to be an employee, whose appointing authority is the Senator holding such position.

(d) Qualified Employee—An individual employed in a Senate office whose salary is disbursed by the Secretary of the Senate, whose salary is within the limit set by his or her appointing authority for participation in a transit program under these regulations, and who is not a member of a car pool or the holder of any Senate parking privilege.

(e) Qualified program Refers to the program of a public mass transportation system that encourages employees to use public transportation in accordance with the requirements of Pub. L. 101–509 whose participation in the Senate program in accordance with these regulations has been approved by the Committee on Rules and Administration.

SEC. 4. PROGRAM REQUIREMENTS

(a) Each office within the Senate is authorized to provide to qualified employees under its supervision a de minimis fringe employment benefit of transit fare media of a value not to exceed the amount authorized by statute (currently not to exceed $21 per month).

(b) Each appointing authority may establish a salary limit for participation in this program by his or her employees. If such salary limit is established, all staff paid at or below that limit, and who meet the other criteria established in these regulations, must be permitted to participate in this program.

(c) For purposes of these regulations, an individual employed for a partial month in an office shall be considered employed for the full month in that office.

(d) The fare media purchased by participating offices under this program shall only be used by qualified employees for travel to and from their official duty station.

(e) Any fare media purchased under this program may not be sold or exchanged.

(f) In addition to any criminal liability, any person misusing, selling, exchanging or obtaining or using a fare media in violation of these regulations shall be required to reimburse the office for the full amount of the fare media involved and may be disqualified from further participation in this program.

SEC. 5. OFFICE ADMINISTRATION OF PROGRAM

Each office electing to participate in this program shall be responsible for its administration in accordance with these regulations, shall designate an individual to manage its program, and may adopt rules for its participation consistent with these regulations.

An employee who wishes to participate in this program shall make application with his or her office on a form which shall include a certification that such person is not a member of a motor pool, does not have any Senate parking privilege (or has relinquished same as a condition of participation), will use the fare media personally for travelling to and from his or her duty station, and will not exchange or sell the fare media provided under this program. The application shall include the following statement:

This certification concerns a matter within the jurisdiction of an agency of the United States and making a false, fictitious, or fraudulent certification may render the maker subject to criminal prosecution under 18 U.S.C. o 1001.

Safekeeping and distribution of fare media purchased for an office is the responsibility of the program manager in that office. Participating offices may not refund or replace any damaged, misplaced, lost, or stolen fare media.

SEC. 6. SENATE STATIONERY ROOM RESPONSIBILITIES

The only program currently available in the Washington, DC metropolitan area at this time is ''Metro Pool, a program established through Metro by the District of Columbia. Transit benefits will be provided through Metro Pool for participating offices in the Washington, D. C. area. The Committee on Rules and Administration shall enter into an agreement with Metro Pool for purchase of fare media by the Senate Stationery Room as required by participating offices on a monthly basis.

A participating office shall purchase the fare media with its authorized appropriated funds from the Senate Stationery Room through its stationery account pursuant to 2 U.S.C. õ 119.

At the time of purchase each office shall present to the Senate Stationery Room two copies of the certification referred to in section 7 of these regulations. The Stationery Room shall make one copy available to the Senate Rules Committee Audit Section. In addition, the Stationery Room may not refund or replace any damaged, misplaced, lost, or stolen fare media that has been purchased through the office's stationery account.

SEC. 7. CERTIFICATION

The certification required by section 6 shall be approved by the appointing authority and shall include the name, and social security number of each participating employee within that office, and the following statements:

(a) Each person included on the list is currently a qualified employee as defined in Section 3.

(b) No person included on the list has any current Senate parking privilege and that no parking privileges will be restored to any person on the list during the period for which the fare media is purchased.

(c) That only one (1) fare media per month is being purchased for each participating employee.

SEC. 8. OTHER PARTICIPATING PROGRAMS

Section 6 provides for procedures for participation by Washington offices in the Metro Pool program established through Metro by the District of Columbia. Additional programs in the Washington, D.C. metropolitan area, or programs offered in other locations where Members have offices that meet the requirements of the law and these regulations, may be used for qualified employees, subject to the following requirements:

(A) Authorization

The public transit system shall submit information to the Committee on Rules and Administration that it participates in an established state or local government program to encourage the use of public transportation for employees in accordance with the provisions of Pub. L. 101–509 and these regulations. If the program meets the requirements of the statute and these regulations and is approved by the Committee on Rules and Administration, any Senate office served by such transit system may provide benefits to its employees pursuant to these regulations.

(B) Procedures

(1) A qualified program operating in the Washington, D.C. metropolitan area that permits purchase arrangements similar to those provided by the Metro Pool program shall participate in the Senate program in accordance with the procedures set forth in Section 6.

(2) A qualified program operating in the Washington, D.C. metropolitan area that does not have purchase arrangements similar to Metro Pool, or a qualified program located outside that metropolitan area, that permits purchases directly by an office, may make arrangements for purchase of media directly with a participating office. Such an office may provide for direct payment to that system and shall submit the certification in accordance with Section 7.

(3) In the case of a qualified program that does not permit purchase arrangements as provided in paragraphs (1) or (2) above, an office may provide for reimbursement to a qualified employee and shall submit a certification in accordance with Section 7.

(C) Documentation

The following documentation must accompany a voucher submitted under paragraph 8(B)(2) or (3):

(1) A copy of the Rules Committee approval, in accordance with section 8(A), with the first voucher submitted for that transit program, provided subsequent vouchers identify the transit program.

(2) The certification.

(3) Proof of purchase of the fare media.

(D) Voucher Guidance

In the case of a Senator's state office, reimbursement for payment to either a qualified transit system, or a qualified employee shall be from the Senators' Official Personnel and Office Expense Account (SOP&OEA) as a home state office expense on a seven part voucher.

In the Washington, DC metropolitan area, reimbursement for payment to either a

qualified transit system, or a qualified employee shall be as follows:

(1) in the case of a Senator's office from the SOP&OEA as an ''other official expense'' (discretionary expense).

(2) in the case of a Senate committee or administrative office as an ''Other'' expense.

SEC. 9. SPECIAL CIRCUMSTANCES

Any circumstances not covered under these regulations shall be considered on application to the Committee on Rules and Administration.

SEC. 10. EFFECTIVE DATE

These regulations shall take effect on the first day of the month following date of approval.

Approved by Chairman and Ranking Member.

Date: September 30, 1998.

ATTACHMENT C

REGULATIONS FOR THE DISPLAY OF FLAGS AND STATE SENATE SEALS IN THE HALLWAYS OUTSIDE SENATOR'S OFFICES

(Adopted by the Committee on Rules and Administration, United States Senate, October 21, 1987; Amended on September 30, 1998)

1. Two wooden flagpoles, 8 feet in height by 1-5/32'' in diameter, mounted in bright brass finished stands weighing at least 15 pounds, for flying 3 foot by 5 foot state and United States flags, at the Senator's option, are permitted in the hallway outside a Senator's office. The flagpoles and stands must be placed inside the office at night.

2. One state seal in cast bronze, or other acceptable material, not less than 14 inches nor more than 15 inches in diameter, may be mounted on the wall to the right or left of the main entrance to the suite, at a height of 5 feet above the floor. The state seal may not be mounted on the entrance door.

3. Artifacts are not permitted on the walls, doors, and in the corridors outside Senator's offices.

Approved by Chairman and Ranking Member.

Date: September 30, 1998.

ATTACHMENT D

REGULATIONS GOVERNING ADVANCE PAYMENT

(Adopted by the Committee on Rules and Administration, United States Senate, October 30, 1997; Amended on September 30, 1998)

Under the authority granted by Sec. 1(b) for P.L. 105–55, the FY98 Legislative Branch Appropriations bill and using these regulations—

The term ''advance payment'' means any expense authorized, by the Committee on Rules and Administration, pursuant to P.L. 105–55.

By the above definition of advance payment and following the enactment of the FY98 Legislative Branch Appropriations bill, in addition to subscriptions, the following items are for advance payment:

(a) Rental of water coolers (cooler units only/not for water)

(b) monthly maintenance on equipment that is either non-standard and/or above the $500 limit

(c) cable TV services (including basic satellite service where needed)

(d) online services (for official use by the Senator only)

(e) rental booths at State Fairs, rent for space to be use during town hall meetings and associated costs (not to include insurance)

(f) conference and seminar fees (not to include meals charged separately)

(g) payments on leased equipment

(h) paging service

(i) clipping services

(j) yellow page listings (not to include the classified yellow pages)

(k) State office rents, up to 1 year in advance.

With respect to charges for on-line services, paging services, clipping services, and equipment maintenance, advance payment shall only be made in the cases of ''flat fee services.'' Also, no advance payment will be allowed in instances where cancellation fees may be incurred. Time limitation on the obligation of funds is restricted to a Member's six-year term of office and a Committee's biennial funding period.

Approved by Chairman and Ranking Member.

Date: September 30, 1998.●

BREAST AND CERVICAL CANCER TREATMENT ACT

● Mrs. BOXER. Mr. President, in the remaining days of this Congress, we can make a profound difference in the lives of American women. The Breast and Cervical Cancer Treatment Act, S. 2017, would ensure that women whose cancer is diagnosed through the Centers for Disease Control and Prevention's screening program have access to the medical care they need. It would give states the option of extending Medicaid coverage to low-income, uninsured women who have been diagnosed with breast or cervical cancer through the CDC program.

Federal legislation is needed because the patchwork of state laws does not ensure women the treatment they need. In California, the health care community and breast cancer activists mobilized behind a bill to provide breast cancer treatment to uninsured and underinsured women. The California legislature passed the bill and sent it to the Governor for his signature. Despite the bill's widespread popularity, the Governor vetoed it a few days ago.

If we care enough about women's health to provide coverage for screenings, then we should care enough to provide treatment when those screenings find cancer. The last thing a woman should have to worry about when she is diagnosed is how she will pay for her treatment.

The heart wrenching experience of one of my constituents shows us how important the Breast and Cervical Cancer Treatment Act is.

Two and a half years ago, Edna Harris of Imperial Beach, California felt a lump in her breast. Like so many other women in her position, she feared it was cancerous. But Edna had another reason to worry. She was uninsured, and neither she nor her husband were employed.

Under the CDC's Early Detection program, Edna underwent a mammogram, a fine needle biopsy, and then a full biopsy. When the results came in, her worst fear had come true: she was diagnosed with breast cancer, and told she needed surgery. The CDC program that had diagnosed her did not cover the costs of treatment. Edna was told that unless she would come up with nearly $4,000, she could not receive treatment.

Edna's experience reveals a fatal flaw in one of our best-intentioned, and indeed most successful, programs. Low income and uninsured women who are diagnosed with cancer under the CDC program must scramble to find the money for treatment. Edna was fortunate; she ultimately was able to come up with the resources to fund her treatment. But others are not so fortunate. I have heard from women who have had to mortgage their homes or hold bake sales to pay for cancer treatment. This is unacceptable.

The Breast and Cervical Cancer Treatment Act will help ensure that all our mothers, daughters, and sisters receive the treatment they need at one of the most vulnerable times of their lives. I urge our leadership to bring the Breast and Cervical Cancer Treatment Act to the floor this session. We owe it to the women of this country to pass this legislation before Congress adjourns.●

ONE GUN A MONTH FORUM

● Mr. LAUTENBERG. Mr. President, I rise today to inform my colleagues of a forum I held on September 2 on the deadly problem of gun trafficking. I am pleased that Senator ROBB and Senator SARBANES were able to join me at the forum.

As my colleagues know, I have introduced S. 466, the Anti-Gun Trafficking Act. The Judiciary Committee has not held hearings on this legislation, and I thought it was important to gather expert testimony on the issue. The testimony I heard at the forum has made me even more determined to pass this sensible legislation and make it more difficult for gun traffickers to obtain and sell their deadly merchandise on our streets.

The witnesses at this forum included: Philadelphia Mayor Ed Rendell, who is also the chair of the Conference of Mayor's Task Force on Gun Violence; James and Sarah Brady; Captain R. Lewis Vass of the Virginia State Police, and Captain Thomas Bowers of the Maryland State Police.

We also heard from a panel of youth from right here in our nation's capital who live with gun violence everyday in their communities. They were John Schuler, Kenisha Green and Quanita Favorite.

In this statement I will summarize what happened during the forum. But I will also be including, during the next few days, testimony from the witnesses so that my colleagues and the public will have a record of their views.

Mr. President, as a result of the Brady Act, we have helped prevent thousands of guns from getting into the hands of the wrong people. Since the Brady Act went into effect in 1994, more than 242,000 handgun purchases have been denied to convicted felons, fugitives, drug addicts and other dangerous persons. The Domestic Violence Gun Ban in the Brady Act, which I sponsored and which went into effect in

1996, has prevented more than 6,800 firearms sales to people convicted of abusing a spouse or child.

However, the Brady Law has not completely stopped the flow of handguns to those who should not have them. Gun traffickers continue to supply an illegal gun market by buying large quantities of guns in states with lax gun laws and then reselling them on the streets—often in cities and states with strict gun laws.

If these traffickers can not legally buy a gun themselves, or if they do not want to have their name turn up if the gun is later found at a crime scene, they find others to make the purchases for them. The trafficker pays a straw purchaser, in money or drugs, to buy 25, 50 or more handguns at a time and then resells the guns to those who otherwise could not buy them—such as convicted felons, drug addicts, or children.

In fact, the Maryland State Police official testified that multiple guns purchased by straw purchasers were the source of the majority of firearms used in the commission of violent crime.

My bill would make it far more difficult and less profitable for traffickers to conduct their deadly business, by prohibiting an individual from buying more than one handgun a month. We know this approach works because three states—Virginia, Maryland, South Carolina—have passed one-gun-a month laws and the results have been dramatic. Gun trafficking from these states has plunged.

For instance, officers from the Virginia State Police testified that after Virginia passed its one-handgun-a-month limit in 1993, the number of crime guns traced back to Virginia from the Northeast dropped by nearly 40 percent. Prior to one-gun-a-month, Virginia had been among the leading supplier of weapons to the so-called ''Iron Pipeline'' that feed the arms race on the streets of Northeastern cities.

In 1995, the Virginia Crime Commission conducted a comprehensive study of the one-handgun-a-month limit to determine if the law had achieved its purpose. That study found, and I quote, ''Virginia's one-gun-a-month statute . . . has had its intended effect of reducing Virginia's status as a source state for gun trafficking.''

Maryland and South Carolina showed similar results. In South Carolina, according to the same Crime Commission report: ''Prior to the passage of the one-gun-a-month law, South Carolina was a leading source state for guns traced to New York City, accounting for 39% of guns recovered in criminal investigations. Following the implementation of the law, South Carolina virtually dropped off of the statistical list of source states for firearms trafficked to the northeast.''

Maryland—the most recent state to pass a limit on handgun purchases—passed its law in 1996 and has already seen the results. According to testimony from the Maryland State Police: ''In 1991 Maryland was nationally ranked second in terms of suppliers of crime guns to the City of New York. By 1997, one year after the passage of Maryland's one gun a month law, Maryland moved out of the top ten suppliers of crime guns to New York City.''

And most significant is the drop in crime that has followed enactment of limits on handgun sales. For example, in Virginia, the number of murders, robberies and aggravated assaults committed with a firearm significantly dropped after 1993 when the limit went into effect. Of course it should not come as a surprise to anyone that violent crime would drop when it becomes more difficult for criminals to get a handgun. Handguns are the gun of choice for criminals—they are cheap and concealable. Of all murders committed with firearm, about 80% are committed with a handgun.

Limits on handgun purchases, while disrupting gun traffickers, have little or no effect on the sportsman or law abiding citizen because a very small percent of all handgun purchases involve multiple sales. For example, in 1991, Virginia State Police reported only 6% of handgun purchases were multiple sales. But of these, nearly 75% were semi-automatic weapons, the weapon of choice among gun traffickers. Mayor Rendell testified that less than 1% of handgun purchasers in Philadelphia bought more than 12 handguns in a twelve month period.

Let me put some human faces on this issue. As I said earlier, kids from the District of Columbia testified at my forum. And what they had to say was terrifying. Guns were an every day part of their lives. For these kids, D.C. does not stand for District of Columbia. It stands for Dodge City.

These young people told us that guns are easy to get in their neighborhoods and schools. They call it getting strapped. And if you do not get strapped you might not make it through the day, they said.

One young woman put it eloquently: ''It's not fair,'' she said. ''Other kids get to go to college. We get to go to funerals. These people who sell guns are the real predators. They feed off our pain.''

We must shut these predators down.

Most sane people would ask, who could possibly need more than one handgun a month? The testimony at my forum gave the clear and obvious answer. Someone who should not have any at all. The only people who would ''need'' more than one gun a month are gun traffickers. It is the only way to make their deadly business profitable.

The need for a national limit on handgun sales is clear. I hope this Congress has the courage to act in the interests of law abiding Americans. But I have my doubts. This Congress has defeated sensible proposals to try to make guns safer through mandated safety locks. This Congress has defeated legislation that would require adults to keep their guns locked and out of reach of children.

I look forward to the day when this Congress listens to the American people instead of the gun lobby and the National Rifle Association. Poll after poll shows that Americans, including gun-owning Americans, want tougher controls on guns. A University of Chicago study in 1996 found 85% support legislation mandating that all new handguns must be childproof, and 80% favors limiting handgun sales to one a month.

We have heard a lot from Charlton Heston lately now that he is president of the National Rifle Association. But I sometimes think Mr. Heston forgets he is only an actor—not Moses—when he uses that superb voice of his in the service of the National Rifle Association.

I would like to remind Mr. Heston of one of the last things Moses said to the children of Israel before he died.

''I have put before you life and death, blessing and curse. Choose life if you and your offspring would live.''

Well, Mr. Heston, we choose life—for ourselves and our children. And we are going to fight the curse that gun traffickers have wrought upon cities, our schools and our streets.

I urge my colleagues to listen to the American people; stop turning a blind eye to the daily destruction caused by guns in America. I urge my colleagues to have the will to do something to help the youth of America live without the daily sound of gunshots in their lives. I ask my colleagues to support this common sense approach to keep handguns out of the hands of criminals.

Mr. President, I ask that the testimony of Mayor Edward Rendell be printed in the RECORD.

The testimony follows:

TESTIMONY OF MAYOR EDWARD G. RENDELL, FORUM ON HANDGUN VIOLENCE AND S. 466, ''THE ANTI-GUN TRAFFICKING ACT''—TALKING POINTS

I. THE SCOPE OF THE PROBLEM

We have a crisis in Philadelphia: Gun violence is out of control, and the carnage it has created is unprecedented in our City.

The statistics are chilling: Between 1985 and 1995, deaths by firearm rose 66 percent in Pennsylvania, and by 102 percent in Philadelphia. In 1995 there were 432 total homicides in Philadelphia, and gun homicides represented a staggering 77 percent of that number. In 1996, there were 414 total homicides, and killings by gun represented 81 percent of that number. And last year, the gruesome trend continued: of the 410 total homicides in Philadelphia, 339 of them—almost 83 percent—were due to gun violence. These numbers are the highest of any city in the nation.

For the City, there is one particularly horrifying element to the growing plague of gun violence: More and more, kids are doing the killing. In almost 15 percent of all Philadelphia gun homicides over the last three years, a child under age 18 was arrested for pulling the trigger. And worst of all, kids are the victims, too: in 1995, 24 children were shot to death; in 1996, the number was 25; and last year, 26 kids were killed by gunfire. Ladies and gentlemen, homicide is now the leading cause of death among youths ages 16 to 21 in

Philadelphia. Compare this Boston, where no kids—zero—under the age of 18 were killed by gunfire during the same period.

The carnage caused by gun violence in Philadelphia doesn't just show up in the murder statistics, either: More than half of all robberies committed in Philadelphia are robberies at the point of a gun. In Philadelphia last year, there were 11,938 robberies, and 53.7 percent were gun robberies. Almost one-third of those arrested for these crimes were under the age of 18.

Of the 6,198 aggravated assaults in Philadelphia last year, more than 36 percent involved a gun—a total of 2,279 shootings in one year. Almost 17 percent of those arrested for these crimes were juveniles.

In one bloody week earlier this year, our newspaper headlines recorded the shooting deaths of eight people in Philadelphia—five in one weekend alone. Among the victims: a 22-year-old man killed in a gun battle that erupted outside the Palestra at the University of Pennsylvania after a high-school basketball championship game. Three others were wounded in the melee, which took place in the middle of 33rd Street as the crowd was leaving the game. In other cases, two owners of a neighborhood pizzeria were gunned down in their store; an elderly woman was shot to death during a robbery in her own home; and a lawyer and his assistant were robbed and executed in their Center City office.

Though that week was particularly grim, it was by no means one-of-a-kind. In fact, the situation is so bad that an absence of murder actually became news last spring: In a story about the Philadelphia murder rate, one local newspaper reported that Philadelphia went 12 days without a homicide, from April 24th to May 5th. As the paper noted: ''There had not been a comparable killing-free stretch for at least 10 years. The next longest streak on record was eight days, in 1988.''

II. WE HAVE TRIED TO ADDRESS THE PROBLEM IN MANY WAYS

Having been a prosecutor for most of my professional career—I was the elected District Attorney of Philadelphia from 1978 to 1986, and before that, I served as the Chief of the Homicide Unit in the DA's office—I know a fair amount about crime and the fear that it generates among good and decent people in our communities. This is not an argument about whether people have the right to own guns or not. Rather, this is about stopping guns from getting into the wrong hands, particularly criminals and children.

I understand the need for comprehensive solutions to fighting crime involve more than controlling the flow of handguns in our City. For example, in my first term as District Attorney of Philadelphia, I authored the death penalty law in Pennsylvania, which withstood legal challenge and today is being used with increasing frequency.

In 1982, during my second term as DA, I authored Pennsylvania's current mandatory sentencing law, which created tough new mandatory jail terms for criminal offenders, including a flat five-year mandatory sentence for anyone convicted of using a firearm during the commission of a felony.

The results have meant longer sentences are being served in Pennsylvania. Last year alone, the number of convictions for gun offenses in Philadelphia almost doubled, and the number of jail terms meted out for these convictions jumped by more than 120 percent. Overall, the number of inmates in Pennsylvania prisons has increased by almost 30 percent since 1993 (26,060 inmates statewide in 1993, up to 34,534 inmates statewide by 1996.)

We have tried through the enactment of state legislation in Pennsylvania as recently a 1995. The Pennsylvania Uniform Firearms Act (18 Pa.C.S. §6111(g)(5)) makes it a felony to ''knowingly and intentionally'' sell or deliver a gun if he or she has ''reason to believe'' that the gun is intended to be used in the commission of a crime. But the problem has been in proving that the seller acted ''knowingly or intentionally,'' with reason to believe that the firearm was intended for use in a crime. Proving intent is always difficult; proving that someone acted knowingly, intentionally and with reason to believe is practically impossible. As a result, a law meant to limit a criminal's access to guns in reality is used only very rarely, and as such has had no practical effect on the effort to keep guns out of the hands of criminals.

III. AND WE'RE STILL TRYING

The statistics show the grim toll of gun violence in Philadelphia, and these facts can be repeated in cities all over America. They can be measured in starkly human terms: the number of lives lost to gun violence, and the number of lives ruined by it, either through injury (victims and families) or incarceration (the perpetrators). But for cities like Philadelphia, the cost of gun violence can be quantified in dollars and cents too; Taking into account the enormous burden that guns place on our health services, courts, prisons, police, sheriffs, fire, pension, workers compensation, our public schools, and social services, the City estimates the cost of gun violence in Philadelphia is $58.8 million a year.

These statistics underscore the critical importance of doing all we can to eliminate the flow of guns to the wrong people: criminals, children, and those ''straw purchasers'' who sell to them. That is why we pushed for tougher sentences, for the death penalty, and for the construction of new prisons to house those sentenced to longer jail terms.

But the grim gun violence statistics keep climbing, showing that what we've done hasn't been nearly enough.

That's why we continue to do all that we can to stop the violence, with initiatives like the successful effort to win agreement with gun manufacturers to provide a child safety lock with every handgun they sell. The industry is to be commended for its willingness to act affirmatively to provide child safety locks. They are an easy, affordable way to reduce gun violence, and they are helping.

That is why we also have launched a comprehensive public education campaign in Philadelphia, targeting youngsters with a message that focuses on violence reduction (I Can End Violence) and specifically on carrying and using guns. These messages are aimed for distribution through churches, rec centers, and youth centers. In addition, we have launched a public service ad campaign—''What Are You Shooting For?''—that sends that same message throughout the Greater Philadelphia region, and we have garnered the assistance of the local media in supporting this effort by broadcasting these messages.

The Philadelphia Police Department has changed the way it does business with respect to handguns. A whole new series of initiatives have been introduced to control the damage done by criminals with handguns. These initiatives include: Standard Interview Protocol for all gun offenders to determine the origin of guns used in crimes; streamlining all gun issues in the Police Department under one command; aggressively serving warrants; zero tolerance for gun offenders in high violent-crime areas; and more aggressively tracing guns used in crimes, and cracking down on second sales, with the help of the ATF.

Working together, the ATF and the Philadelphia Police Department have made terrific progress in tracking the origins of guns used in the commission of crimes. Initially, the joint ATF–PPD task force traced firearms recovered in major crimes. Today, they trace all firearms linked to an arrest, and soon, they will have the capability to trace all firearms recovered in Philadelphia.

As a result of these initiatives, the task force has increased the number of arrests for gun violation prosecutions by 25 percent, and that number continues to rise. But again, to be successful in prosecuting those who sell guns to criminals, we must prove that the seller ''knowingly or intentionally'' sold the gun to someone he knew was going to use it to commit a crime. In practice, it is a difficult EGR standards to meet, especially since neither the seller nor the buyer has any incentive to testify to that effect. The seller clearly has no interest in testifying that he knowingly sold a gun to a criminal, or that he had reason to expect that it would be used in a crime. And the criminal likewise has little incentive to volunteer any inculpatory evidence whatsoever.

As a result, despite the success of these efforts, we must all do more.

IV. WHAT THE GUN INDUSTRY CAN DO

Gun manufacturers can help, too. Child safety locks were a great move, but more must be done. I have asked the industry to:

(1) increase internal security—14,000 guns were stolen from one manufacturer's plant in Southern California;

(2) stop selling guns that are attractive to criminals but have no legitimate use except to kill people: Saturday night specials, armor piercing bullets, military assault weapons;

(3) stop advertising that incorrectly suggests that people are safer for having a gun in their homes; the New England Journal of Medicine reports that bringing a gun into the home leads to a three-fold increase in risk of homicide in the home;

(4) take the lead and oppose senseless restrictions that impede investigation of gun crimes, such as obstruction of the Brady form and multiple purchase form in 20 days, making tracking infinitely more difficult. NOTE: even Ron Stewart of Colt recently called for federalization of state laws requiring a second set of serial numbers on weapons because, as he said, ''isn't that a protective measure that prevents illegal ownership of a firearm?''

(5) A 1994 federal law banned further manufacture for civilian use of clips or magazines holding more than 10 rounds of ammunition. Stop producing guns that accept ''grandfathered'' magazines;

(6) Develop technology to make illegal use almost impossible, such as the production of ''personalized'' handguns that can only be fired by their rightful owners. This is the ultimate weapon against illegal use of handguns. Last year, Colt unveiled a prototype personalized handgun for police to prevent them from being shot with their own weapons. This system should be developed ASAP for everyone, police and civilians alike.

The gun industry, working with the American Shooting Sports Council, has agreed to join mayors from a variety of cities, including Philadelphia, Chicago, Dallas, and St. Louis, in the formation of a joint task force to come with initiatives, by the fall of this year, to reduce handgun violence in American cities. That is the kind of partnership we need to substantively address the problem of handgun violence in our cities.

That is why I also urge federal support for Project Exile, a partnership we have created with the National Rifle Association in which Philadelphia would be used as a test city to gauge the impact of federalizing every violation of existing handgun laws. The idea is

simple: federally prosecute all handgun violations, and mete out tough federal prison sentences for all convictions. It has shown dramatic results in Richmond, Va., and I have no doubt that it will reduce gun violence and the carnage that accompanies it on the streets of Philadelphia. People on both sides of the age-old gun debate have criticized this partnership, but again, this is not about the Second Amendment. This is not about the right to bear arms. We're talking about stemming the flow of guns into the inner city, where they are used by criminals and children to commit crimes and destroy families. Thanks to the support of Sen. Lautenberg and Sen. Specter, Congressional support for this initiative will help us obtain the federal resources needed to make the program a success. I have already been to the White House to discuss Administration support for the initiative, and I believe that it will be successful in that regard.

We are engaged in a war to reduce the carnage caused by gun violence. And we must fight this fight on many fronts, and sometimes with unusual allies. We have worked with the gun industry, the NRA and its representatives, for one simple reason: We need their help to reduce gun violence. And we are still considering litigation to force gun manufacturers to join the fight against gun violence if they do not do so willingly.

V. THE NEED FOR FEDERAL ONE GUN A MONTH LEGISLATION

If these initiatives are critical to our fight, then the enactment of legislation is no less essential in the effort to reduce gun violence. And that is why today's forum is critically important: Whatever other initiatives are implemented, we must develop Congressional support for S. 466, the federal Anti-Gun Trafficking Act sponsored by Sen. Lautenberg. Because gun trafficking knows no state lines, federal legislation—a uniform national standard limiting handgun purchases—is the only effective way to combat this problem.

I have long advocated support for One Gun a Month, because it is a matter of basic common sense. One Gun a Month deals only with handguns, and does not interfere at all with a citizen's right to maintain a firearm for home or personal protection. Instead, One Gun a Month focuses on stopping multiple purchases of handguns, because these are the guns that ultimately wind up being resold on the streets of our cities to criminals and children.

Look at the statistics on gun sales in Pennsylvania. In 1996, there were 150,000 handgun sales statewide. During roughly the same period, there were 38,338 guns sold in the Philadelphia region alone. Of that number, roughly nine percent of the purchasers bought nearly 30 percent of the guns.

What that means is that small numbers of people are buying lots of guns, and our experience shows that is for only one reason: to resell them on the street to people who use them in the commission of crimes.

One Gun a Month would limit purchasers to buying 12 guns a year. I also support the so-called ''Collector's Exception,'' which would permit bona fide gun collectors from the legislation. As a result, for the overwhelming majority of gun purchasers, only the 13th gun would be prohibited. Ladies and gentlemen, legislation that proposes to ban handgun sales only at the purchase of 13 guns a year does not affect the average citizen—or the average gun purchaser. As the New York Times pointed out in a recent editorial supporting a federal limit, those who argue that One Gun a Month would limit a citizen's right to bear arms should be forced to ''explain to crime-fearing Americans why a 12-gun-per-year limit would impose any offensive burden on law-abiding users who may want a weapons for target shooting or for personal protection.''

Instead, the federal standard proposed in S. 466 simply limits the ability of those who resell guns on our streets. Again, look at just the Pennsylvania numbers. Of the 25,510 purchasers of guns in 1996, One Gun a Month would affect only 103 Pennsylvania purchasers (those who bought more than 12 guns in a 12-month period.) That's .4 percent of all purchasers of guns in Philadelphia, and only a total of 5,000 guns out of the 38,000 sold in 1996 in the Philadelphia region.

And while One Gun a Month does little to limit purchases by law-abiding citizens in Pennsylvania, it has the potential to crack down on the sales to those who sell to criminals and children. In other words, it has the ability to go after the gun sales that none of us want: not the City of Philadelphia, not any member of Congress, and not even the gun manufacturers or the NRA.

The grim reality of these types of sales is inescapable. FACT: At least 20 percent of all multiple gun purchasers can be linked to guns used in the commission of crime, particularly violent crime, in Philadelphia. FACT: A total of 608 handguns that were purchased in multiple purchase transactions have been directly linked to a homicide or other violent crime in Philadelphia. And as the tracing of these guns continues, these numbers undoubtedly will continue to rise. FACT: Under One Gun a Month, the sale of guns to ''suspect purchasers'' (those whose purchases suggest involvement in street resale of guns) could be reduced by as much as 54 percent.

States have taken the lead in the effort to limit purchases to one gun a month. And as Sen. Lautenberg has made clear, the good news is that One Gun a Month is working in Virginia, South Carolina and Maryland, where it was most recently enacted. In Virginia, the odds of a handgun seized in a crime anywhere along the East Coast has dropped 66 percent since One Gun a Month was enacted in 1993. In Maryland, handgun sales dropped more than 25 percent last year, and as the Washington Post noted sarcastically, that in turn ''is threatening Maryland's position as a leading supplier of handguns seized by police at crime scenes up and down the East Coast.''

I urge members of Congress to follow the lead of Sen. Lautenberg and support S. 466, the ''Anti-Gun Trafficking Act.'' I have also urged the gun industry and the NRA to support this important legislation, together with my fellow mayors from cities all over the nation. Again, this is not about whether people have the right to bear arms or purchase weapons. This legislation does not affect them. This is about keeping guns out of the hands of criminals, and out of the hands of children. Gun violence is out of control in Philadelphia, and this legislation can help to stop it. I urge your support.

Several years ago, a Florida-based manufacturer of assault pistols which at that time were with a 32-round magazine, said: ''I know some of the guns going out of here will end up killing people, but I'm not responsible for that.'' He was wrong then, and that attitude is wrong now. It is my responsibility, and it is everyone's responsibility, including mayors, state legislators, members of Congress, and indeed, especially the gun industry itself.

Back in April, I came to Washington to speak directly to gun manufacturers, thanks to the invitation of the American Shooting Sports Council. It was, I might add, not the greatest reception I've ever gotten. But they were at least willing to listen, and I told them that we very much wanted to be their allies in fighting the growing plague of gun violence. That remains true, but understand, one way or another we will try anything and everything—whether it is partnering with the gun industry or the NRA, or suing gun manufacturers—to end the terrible consequences of gun violence on the streets of Philadelphia.●

THE CALENDAR

Mr. HAGEL. Mr. President, for the leader, I ask unanimous consent that the Senate now proceed to the consideration of the following bills, en bloc:

Calendar Nos. 494, S. 890; 525, S. 1398; 527, S. 2171; 528, H.R. 449; 529, H.R. 2886; 530, H.R. 3796; 541, S. 1016; 542, S. 1408; 543, S. 1990; 546, S. 2232; 550, S. 1333; 551, S. 1665; 552, S. 2129; 561, S. 469; 565, S. 2272; 571, S. 1718; 573, S. 2106; 579, H.R. 3903; 598, H.R. 3381.

Further, I ask unanimous consent that any committee amendments be agreed to, the bills be read the third time and passed, as amended, if amended, the motions to reconsider be laid upon the table, and that any statements relating to the bills appear at the appropriate point in the RECORD, with the above occurring en bloc.

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

DUTCH JOHN FEDERAL PROPERTY DISPOSITION AND ASSISTANCE ACT OF 1998

The Senate proceeded to consider the bill (S. 890) to dispose of certain Federal properties located in Dutch John, Utah, to assist the local government in the interim delivery of basic services to the Dutch John community, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, 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 ''Dutch John Federal Property Disposition and Assistance Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) Dutch John, Utah, was founded by the Secretary of the Interior in 1958 on Bureau of Reclamation land as a community to house personnel, administrative offices, and equipment for project construction and operation of the Flaming Gorge Dam and Reservoir as authorized by the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.); and

(B) permanent structures (including houses, administrative offices, equipment storage and maintenance buildings, and other public buildings and facilities) were constructed and continue to be owned and maintained by the Secretary of the Interior;

(2)(A) Bureau of Reclamation land surrounding the Flaming Gorge Reservoir (including the Dutch John community) was included within the boundaries of the Flaming Gorge National Recreation Area in 1968 under Public Law 90–540 (16 U.S.C. 460v et seq.);

(B) Public Law 90–540 assigned responsibility for administration, protection, and development of the Flaming Gorge National Recreation Area to the Secretary of Agriculture and provided that lands and waters needed or used for the Colorado River Storage Project would continue to be administered by the Secretary of the Interior; and

(C) most structures within the Dutch John community (including the schools and public buildings within the community) occupy lands administered by the Secretary of Agriculture;

(3)(A) the Secretary of Agriculture and the Secretary of the Interior are unnecessarily burdened with the cost of continuing to provide basic services and facilities and building maintenance and with the administrative costs of operating the Dutch John community; and

(B) certain structures and lands are no longer essential to management of the Colorado River Storage Project or to management of the Flaming Gorge National Recreation Area;

(4)(A) residents of the community are interested in purchasing the homes they currently rent from the Secretary of the Interior and the land on which the homes are located;

(B) Daggett County, Utah, is interested in reducing the financial burden the County experiences in providing local government support services to a community that produces little direct tax revenue because of Federal ownership; and

(C) a withdrawal of the role of the Federal Government in providing basic direct community services to Dutch John would require local government to provide the services at a substantial cost;

(5)(A) residents of the Dutch John community are interested in self-government of the community; and

(B) with growing demands for additional commercial recreation services for visitors to the Flaming Gorge National Recreation Area and Ashley National Forest, there are opportunities for private economic development, but few private lands are available for the services; and

(6) the privatization and disposal to local government of certain lands in and surrounding Dutch John would be in the public interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to privatize certain lands in and surrounding Dutch John, Utah;

(2) to transfer jurisdiction of certain Federal property between the Secretary of Agriculture and the Secretary of the Interior;

(3) to improve the Flaming Gorge National Recreation Area;

(4) to dispose of certain residential units, public buildings, and facilities;

(5) to provide interim financial assistance to local government to defray the cost of providing basic governmental services;

(6) to achieve efficiencies in operation of the Flaming Gorge Dam and Reservoir and the Flaming Gorge National Recreation Area;

(7) to reduce long-term Federal outlays; and

(8) to serve the interests of the residents of Dutch John and Daggett County, Utah, and the general public.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY OF AGRICULTURE.—The term ''Secretary of Agriculture'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(2) SECRETARY OF THE INTERIOR.—The term ''Secretary of the Interior'' means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

SEC. 4. DISPOSITION OF CERTAIN LANDS AND PROPERTIES.

(a) IN GENERAL.—Lands, structures, and community infrastructure facilities within or associated with Dutch John, Utah, that have been identified by the Secretary of Agriculture or the Secretary of the Interior as unnecessary for support of the agency of the respective Secretary shall be transferred or disposed of in accordance with this Act.

(b) LAND DESCRIPTION.—Except as provided in subsection (e), the Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this Act) approximately 2,450 acres within or associated with the Dutch John, Utah, community in the NW¼ NW¼, S½ NW¼, and S½ of Section 1, the S½ of Section 2, 10 acres more or less within the NE¼ SW¼ of Section 3, Sections 11 and 12, the N½ of Section 13, and the E½ NE¼ of Section 14 of Township 2 North, Range 22 East, Salt Lake Base and Meridian, that have been determined to be available for transfer by the Secretary of Agriculture and the Secretary of the Interior, respectively.

(c) INFRASTRUCTURE FACILITIES AND LAND.—Except as provided in subsection (e), the Secretary of the Interior shall dispose of (in accordance with this Act) community infrastructure facilities and land that have been determined to be available for transfer by the Secretary of the Interior, including the following:

(1) The fire station, sewer systems, sewage lagoons, water systems (except as provided in subsection (e)(3)), old post office, electrical and natural gas distribution systems, hospital building, streets, street lighting, alleys, sidewalks, parks, and community buildings located within or serving Dutch John, including fixtures, equipment, land, easements, rights-of-way, or other property primarily used for the operation, maintenance, replacement, or repair of a facility referred to in this paragraph.

(2) The Dutch John Airport, comprising approximately 25 acres, including runways, roads, rights-of-way, and appurtenances to the Airport, subject to such monitoring and remedial action by the United States as is necessary.

(3) The lands on which are located the Dutch John public schools, which comprise approximately 10 acres.

(d) OTHER PROPERTIES AND FACILITIES.—The Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this Act) the other properties and facilities that have been determined to be available for transfer or disposal by the Secretary of Agriculture and the Secretary of the Interior, respectively, including the following:

(1) Certain residential units occupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(2) Certain residential units unoccupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(3) Lots within the Dutch John community that are occupied on the date of enactment of this Act by privately owned modular homes under lease agreements with the Secretary of the Interior.

(4) Unoccupied platted lots within the Dutch John community.

(5) The land, comprising approximately 3.8 acres, on which is located the Church of Jesus Christ of Latter Day Saints, within Block 9, of the Dutch John community.

(6) The lands for which special use permits, easements, or rights-of-way for commercial uses have been issued by the Forest Service.

(7) The lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources, as described in the survey required under section 7, including yards and land defined by fences in existence on the date of enactment of this Act.

(8) The Dutch John landfill site, subject to such monitoring and remedial action by the United States as is necessary, with responsibility for monitoring and remediation being shared by the Secretary of Agriculture and the Secretary of the Interior proportionate to their historical use of the site.

(9) Such fixtures and furnishing in existence and in place on the date of enactment of this Act as are mutually determined by Daggett County, the Secretary of Agriculture, and the Secretary of the Interior to be necessary for the full use of properties or facilities disposed of under this Act.

(10) Such other properties or facilities at Dutch John that the Secretary of Agriculture or the Secretary of the Interior determines are not necessary to achieve the mission of the respective Secretary and the disposal of which would be consistent with this Act.

(e) RETAINED PROPERTIES.—Except to the extent the following properties are determined by the Secretary of Agriculture or the Secretary of the Interior to be available for disposal, the Secretary of Agriculture and the Secretary of the Interior shall retain for their respective use the following:

(1) All buildings and improvements located within the industrial complex of the Bureau of Reclamation, including the maintenance shop, 40 industrial garages, 2 warehouses, the equipment storage building, the flammable equipment storage building, the hazardous waste storage facility, and the property on which the buildings and improvements are located.

(2) 17 residences under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture, of which—

(A) 15 residences shall remain under the jurisdiction of the Secretary of the Interior; and

(B) 2 residences shall remain under the jurisdiction of the Secretary of Agriculture.

(3) The Dutch John water system raw water supply line and return line between the power plant and the water treatment plant, pumps and pumping equipment, and any appurtenances and rights-of-way to the line and other facilities, with the retained facilities to be operated and maintained by the United States with pumping costs and operation and maintenance costs of the pumps to be included as a cost to Daggett County in a water service contract.

(4) The heliport and associated real estate, consisting of approximately 20 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(5) The Forest Service warehouse complex and associated real estate, consisting of approximately 2 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(6) The Forest Service office complex and associated real estate, which shall remain under the jurisdiction of the Secretary of Agriculture.

(7) The United States Post Office, pursuant to Forest Service Special Use Permit No. 1073, which shall be transferred to the jurisdiction of the United States Postal Service pursuant to section 6(d).

SEC. 5. REVOCATION OF WITHDRAWALS.

In the case of lands and properties transferred under section 4, effective on the date of transfer to the Secretary of the Interior (if applicable) or conveyance by quitclaim deed out of Federal ownership, authorization for each of the following withdrawals is revoked:

(1) The Public Water Reserve No. 16, Utah No. 7, dated March 9, 1914.

(2) The Secretary of the Interior Order dated October 20, 1952.

(3) The Secretary of the Interior Order dated July 2, 1956, No. 71676.

(4) The Flaming Gorge National Recreation Area, dated October 1, 1968, established under Public Law 90–540 (16 U.S.C. 460v et seq.), as to lands described in section 4(b).

(5) The Dutch John Administrative Site, dated December 12, 1951 (PLO 769, U–0611).

SEC. 6. TRANSFER OF JURISDICTION.

(a) TRANSFERS FROM THE SECRETARY OF AGRICULTURE.—Except for properties retained under section 4(e), all lands designated under section 4 for disposal shall be—

(1) transferred from the jurisdiction of the Secretary of Agriculture to the Secretary of the Interior and, if appropriate, the United States Postal Service; and

(2) removed from inclusion in the Ashley National Forest and the Flaming Gorge National Recreation Area.

(b) TRANSFERS FROM THE SECRETARY OF THE INTERIOR.—

(1) IN GENERAL.—The Secretary of the Interior shall transfer to the Secretary of Agriculture administrative jurisdiction over certain lands and interests in land described in paragraph (2), containing approximately 2,167 acres located in Duchesne and Wasatch Counties, Utah, acquired by the Secretary of the Interior for the Central Utah Project.

(2) LAND DESCRIPTION.—The lands referred to in paragraph (1) are lands indicated on the maps generally depicting—

(A) the Dutch John transfer of the Ashley National Forest to the State of Utah, dated February 1997;

(B) the Dutch John transfer of the Uinta National Forest to the State of Utah, dated February 1997;

(C) lands to be transferred to the Forest Service: Lower Stillwater Properties;

(D) lands to be transferred to the Forest Service: Red Hollow (Diamond Properties); and

(E) lands to be transferred to the Forest Service: Coal Mine Hollow (Current Creek Reservoir).

(3) STATUS OF LANDS.—

(A) NATIONAL FORESTS.—The lands and interests in land transferred to the Secretary of Agriculture under paragraph (1) shall become part of the Ashley or Uinta National Forest, as appropriate. The Secretary of Agriculture shall adjust the boundaries of each of the National Forests to reflect the additional lands.

(B) MANAGEMENT.—The transferred lands shall be managed in accordance with the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (36 Stat. 962, chapter 186; 16 U.S.C. 515 et seq.) and other laws (including rules and regulations) applicable to the National Forest System.

(C) WILDLIFE MITIGATION.—As of the date of the transfer under paragraph (1), the wildlife mitigation requirements of section 8 of the Act of April 11, 1956 (43 U.S.C. 620g), shall be deemed to be met.

(D) ADJUSTMENT OF BOUNDARIES.—This paragraph does not limit the authority of the Secretary of Agriculture to adjust the boundaries of the Ashley or Uinta National Forest pursuant to section 11 of the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (36 Stat. 963, chapter 186; 16 U.S.C. 521).

(4) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Ashley and Uinta National Forests, as adjusted under this section, shall be considered to be the boundaries of the Forests as of January 1, 1965.

(c) FEDERAL IMPROVEMENTS.—The Secretary of the Interior shall transfer to the Secretary of Agriculture jurisdiction over Federal improvements to the lands transferred under this section.

(d) TRANSFERS FROM THE SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall transfer to the United States Postal Service administrative jurisdiction over certain lands and interests in land subject to Forest Service Special Use Permit No. 1073, containing approximately 0.34 acres.

(e) WITHDRAWALS.—Notwithstanding subsection (a), lands retained by the Federal Government under this Act shall continue to be withdrawn from mineral entry under the United States mining laws.

SEC. 7. SURVEYS.

The Secretary of the Interior shall survey or resurvey all or portions of the Dutch John community as necessary—

(1) to accurately describe parcels identified under this Act for transfer among agencies, for Federal disposal, or for retention by the United States; and

(2) to facilitate future recordation of title.

SEC. 8. PLANNING.

(a) RESPONSIBILITY.—In cooperation with the residents of Dutch John, the Secretary of Agriculture, and the Secretary of the Interior, Daggett County, Utah, shall be responsible for developing a land use plan that is consistent with maintenance of the values of the land that is adjacent to land that remains under the jurisdiction of the Secretary of Agriculture or Secretary of the Interior under this Act.

(b) COOPERATION.—The Secretary of Agriculture and the Secretary of the Interior shall cooperate with Daggett County in ensuring that disposal processes are consistent with the land use plan developed under subsection (a) and with this Act.

SEC. 9. APPRAISALS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall conduct appraisals to determine the fair market value of properties designated for disposal under paragraphs (1), (2), (3), (5), and (7) of section 4(d).

(2) UNOCCUPIED PLATTED LOTS.—Not later than 90 days after the date of receipt by the Secretary of the Interior from an eligible purchaser of a written notice of intent to purchase an unoccupied platted lot referred to in section 4(d)(4), the Secretary of the Interior shall conduct an appraisal of the lot.

(3) SPECIAL USE PERMITS.—

(A) IN GENERAL.—Not later than 90 days after the date of receipt by the Secretary of the Interior from a permit holder of a written notice of intent to purchase a property described in section 10(g), the Secretary of the Interior shall conduct an appraisal of the property.

(B) IMPROVEMENTS AND ALTERNATIVE LAND.—An appraisal to carry out subparagraph (A) may include an appraisal of the value of permit holder improvements and alternative land in order to conduct an in-lieu land sale.

(4) OCCUPIED PARCELS.—In the case of an occupied parcel, an appraisal under this subsection shall include an appraisal of the full fee value of the occupied lot or land parcel and the value of residences, structures, facilities, and existing, in-place federally owned fixtures and furnishings necessary for full use of the property.

(5) UNOCCUPIED PARCELS.—In the case of an unoccupied parcel, an appraisal under this subsection shall consider potential future uses of the parcel that are consistent with the land use plan developed under section 8(a) (including the land use map of the plan) and with subsection (c).

(6) FUNDING.—Funds for appraisals conducted under this section shall be derived from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d).

(b) REDUCTIONS FOR IMPROVEMENTS.—An appraisal of a residence or a structure or facility leased for private use under this section shall deduct the contributory value of improvements made by the current occupant or lessee if the occupant or lessee provides reasonable evidence of expenditure of money or materials in making the improvements.

(c) CURRENT USE.—An appraisal under this section shall consider the current use of a property (including the use of housing as a community residence) and avoid uncertain speculation as to potential future use.

(d) REVIEW.—

(1) IN GENERAL.—The Secretary of the Interior shall make an appraisal under this section available for review by a current occupant or lessee.

(2) ADDITIONAL INFORMATION OR APPEAL.—

(A) IN GENERAL.—The current occupant or lessee may provide additional information, or appeal the findings of the appraisal in writing, to the Upper Colorado Regional Director of the Bureau of Reclamation.

(B) ACTION BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior—

(i) shall consider the additional information or appeal; and

(ii) may conduct a second appraisal if the Secretary determines that a second appraisal is necessary.

(e) INSPECTION.—The Secretary of the Interior shall provide opportunities for other qualified, interested purchasers to inspect completed appraisals under this section.

SEC. 10. DISPOSAL OF PROPERTIES.

(a) CONVEYANCES.—

(1) PATENTS.—The Secretary of the Interior shall dispose of properties identified for disposal under section 4, other than properties retained under section 4(e), without regard to law governing patents.

(2) CONDITION AND LAND.—Except as otherwise provided in this Act, conveyance of a building, structure, or facility under this Act shall be in its current condition and shall include the land parcel on which the building, structure, or facility is situated.

(3) FIXTURES AND FURNISHINGS.—An existing and in-place fixture or furnishing necessary for the full use of a property or facility under this Act shall be conveyed along with the property.

(4) MAINTENANCE.—

(A) BEFORE CONVEYANCE.—Before property is conveyed under this Act, the Secretary of the Interior shall ensure reasonable and prudent maintenance and proper care of the property.

(B) AFTER CONVEYANCE.—After property is conveyed to a recipient under this Act, the recipient shall be responsible for—

(i) maintenance and proper care of the property; and

(ii) any contamination of the property.

(b) INFRASTRUCTURE FACILITIES AND LAND.—Infrastructure facilities and land described in paragraphs (1) and (2) of section 4(c) shall be conveyed, without consideration, to Daggett County, Utah.

(c) SCHOOL.—The lands on which are located the Dutch John public schools described in section 4(c)(3) shall be conveyed, without consideration, to the Daggett County School District.

(d) UTAH DIVISION OF WILDLIFE RESOURCES.—Lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources described in section 4(d)(7) shall be conveyed, without consideration, to the Division.

(e) RESIDENCES AND LOTS.—

(1) IN GENERAL.—

(A) FAIR MARKET VALUE.—A residence and occupied residential lot to be disposed of under this Act shall be sold for the appraised fair market value.

(B) NOTICE.—The Secretary of the Interior shall provide local general public notice, and written notice to lessees and to current occupants of residences and of occupied residential lots for disposal, of the intent to sell properties under this Act.

(2) PURCHASE OF RESIDENCES OR LOTS BY LESSEES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Interior shall provide a holder of a current lease from the Secretary for a residence to be sold under paragraph (1) or (2) of section 4(d) or for a residential lot occupied by a privately owned dwelling described in section 4(d)(3) a period of 180 days beginning on the date of the written notice of the Secretary of intent of the Secretary to sell the residence or lot, to execute a contract with the Secretary of the Interior to purchase the residence or lot for the appraised fair market value.

(B) NOTICE OF INTENT TO PURCHASE.—To obtain the protection of subparagraph (A), the lessee shall, during the 30-day period beginning on the date of receipt of the notice referred to in subparagraph (A), notify the Secretary in writing of the intent of the lessee to purchase the residence or lot.

(C) NO NOTICE OR PURCHASE CONTRACT.—If no written notification of intent to purchase is received by the Secretary in accordance with subparagraph (B) or if a purchase contract has not been executed in accordance with subparagraph (A), the residence or lot shall become available for purchase by other persons under paragraph (3).

(3) PURCHASE OF RESIDENCES OR LOTS BY OTHER PERSONS.—

(A) ELIGIBILITY.—If a residence or lot becomes available for purchase under paragraph (2)(C), the Secretary of the Interior shall make the residence or lot available for purchase by—

(i) a current authorized occupant of the residence to be sold;

(ii) a holder of a current reclamation lease for a residence within Dutch John;

(iii) an employee of the Bureau of Reclamation or the Forest Service who resides in Dutch John; or

(iv) a Federal or non-Federal employee in support of a Federal agency who resides in Dutch John.

(B) PRIORITY.—

(i) SENIORITY.—Priority for purchase of properties available for purchase under this paragraph shall be by seniority of reclamation lease or residency in Dutch John.

(ii) PRIORITY LIST.—The Secretary of the Interior shall compile a priority list of eligible potential purchasers that is based on the length of continuous residency in Dutch John or the length of a continuous residence lease issued by the Bureau of Reclamation in Dutch John, with the highest priority provided for purchasers with the longest continuous residency or lease.

(iii) INTERRUPTIONS.—If a continuous residency or lease was interrupted, the Secretary shall consider only that most recent continuous residency or lease.

(iv) OTHER FACTORS.—In preparing the priority list, the Secretary shall not consider a factor (including agency employment or position) other than the length of the current residency or lease.

(v) DISPUTES.—A potential purchaser may file a written appeal over a dispute involving eligibility or ranking on the priority list with the Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation. The Secretary, acting through the Regional Director, shall consider the appeal and resolve the dispute.

(C) NOTICE.—The Secretary of the Interior shall provide general public notice and written notice by certified mail to eligible purchasers that specifies—

(i) properties available for purchase under this paragraph;

(ii) the appraised fair market value of the properties;

(iii) instructions for potential eligible purchasers; and

(iv) any purchase contract requirements.

(D) NOTICE OF INTENT TO PURCHASE.—An eligible purchaser under this paragraph shall have a period of 90 days after receipt of written notification to submit to the Secretary of the Interior a written notice of intent to purchase a specific available property at the listed appraised fair market value.

(E) NOTICE OF ELIGIBILITY OF HIGHEST ELIGIBLE PURCHASER TO PURCHASE PROPERTY.—The Secretary of the Interior shall provide notice to the potential purchaser with the highest eligible purchaser priority for each property that the purchaser will have the first opportunity to execute a sales contract and purchase the property.

(F) AVAILABILITY TO OTHER PURCHASERS ON PRIORITY LIST.—If no purchase contract is executed for a property by the highest priority purchaser within the 180 days after receipt of notice under subparagraph (E), the Secretary of the Interior shall make the property available to other purchasers listed on the priority list.

(G) LIMITATION ON NUMBER OF PROPERTIES.—No household may purchase more than 1 residential property under this paragraph.

(4) RESIDUAL PROPERTY TO COUNTY.—If a residence or lot to be disposed of under this Act is not purchased in accordance with paragraph (2) or (3) within 2 years after providing the first notice of intent to sell under paragraph (1)(B), the Secretary of the Interior shall convey the residence or lot to Daggett County without consideration.

(5) ADVISORY COMMITTEE.—The Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation, may appoint a nonfunded Advisory Committee comprised of 1 representative from each of the Bureau of Reclamation, Daggett County, and the Dutch John community to review and provide advice to the Secretary on the resolution of disputes arising under this subsection and subsection (f).

(6) FINANCING.—The Secretary of the Interior shall provide advice to potential purchasers under this subsection and subsection (f) in obtaining appropriate and reasonable financing for the purchase of a residence or lot.

(f) UNOCCUPIED PLATTED LOTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Interior shall make an unoccupied platted lot described in section 4(d)(4) available for sale to eligible purchasers for the appraised fair market value of the lot.

(2) CONVEYANCE FOR PUBLIC PURPOSE.—On request from Daggett County, the Secretary of the Interior may convey directly to the County without consideration a lot referred to in paragraph (1) that will be used for a public use purpose that is consistent with the land use plan developed under section 8(a).

(3) ADMINISTRATION.—The procedures established under subsection (e) shall apply to this subsection to the maximum extent practicable, as determined by the Secretary of the Interior.

(4) LAND-USE DESIGNATION.—For each lot sold under this subsection, the Secretary of the Interior shall include in the notice of intent to sell the lot provided under this subsection the land-use designation of the lot established under the land use plan developed under section 8(a).

(5) LIMITATION ON NUMBER OF LOTS.—No household may purchase more than 1 residential lot under this subsection.

(6) LIMITATION ON PURCHASE OF ADDITIONAL LOTS.—No household purchasing an existing residence under this section may purchase an additional single home, residential lot.

(7) RESIDUAL LOTS TO COUNTY.—If a lot described in paragraph (1) is not purchased in accordance with paragraphs (1) through (6) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the lot to Daggett County without consideration.

(g) SPECIAL USE PERMITS.—

(1) SALE.—Lands on which Forest Service special use permits are issued to holders numbered 4054 and 9303, Ashley National Forest, comprising approximately 15.3 acres and 1 acre, respectively, may be sold at appraised fair market value to the holder of the permit.

(2) ADMINISTRATION OF PERMITS.—On transfer of jurisdiction of the land to the Secretary of the Interior pursuant to section 6, the Secretary of the Interior shall administer the permits under the terms and conditions of the permits.

(3) NOTICE OF AVAILABILITY FOR PURCHASE.—The Secretary of the Interior shall notify the respective permit holders in writing of the availability of the land for purchase.

(4) APPRAISALS.—The Secretary of the Interior shall not conduct an appraisal of the land unless the Secretary receives a written notice of intent to purchase the land within 2 years after providing notice under paragraph (3).

(5) ALTERNATIVE PARCELS.—On request by permit holder number 9303, the Secretary of the Interior, in consultation with Daggett County, may—

(A) consider sale of a parcel within the Daggett County community of similar size and appraised value in lieu of the land under permit on the date of enactment of this Act; and

(B) provide the holder credit toward the purchase or other negotiated compensation for the appraised value of improvements of the permittee to land under permit on the date of enactment of this Act.

(6) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) through (5) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(h) TRANSFERS TO COUNTY.—Other land occupied by authorization of a special use permit, easement, or right-of-way to be disposed of under this Act shall be transferred to Daggett County if the holder of the authorization and the County, prior to transfer of the lands to the County—

(1) agree to and execute a legal document that grants the holder the rights and privileges provided in the existing authorization; or

(2) enter into another arrangement that is mutually satisfactory to the holder and the County.

(i) CHURCH LAND.—

(1) IN GENERAL.—The Secretary of the Interior shall offer to sell land to be disposed of under this Act on which is located an established church to the parent entity of the church at the appraised fair market value.

(2) NOTICE.—The Secretary of the Interior shall notify the church in writing of the availability of the land for purchase.

(3) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) and (2) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(j) RESIDUAL PROPERTIES TO COUNTY.—The Secretary of the Interior shall convey all lands, buildings, or facilities designated for disposal under this Act that are not conveyed in accordance with subsections (a) through (i) to Daggett County without consideration.

(k) WATER RIGHTS.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary of the Interior shall transfer all water rights the Secretary holds that are applicable to the Dutch John municipal water system to Daggett County.

(2) WATER SERVICE CONTRACT.—

(A) IN GENERAL.—Transfer of rights under paragraph (1) is contingent on Daggett County entering into a water service contract with the Secretary of the Interior covering payment for and delivery of untreated water to Daggett County pursuant to the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.).

(B) DELIVERED WATER.—The contract shall require payment only for water actually delivered.

(3) EXISTING RIGHTS.—Existing rights for transfer to Daggett County under this subsection include—

(A) Utah Water Right 41–2942 (A30557, Cert. No. 5903) for 0.08 cubic feet per second from a water well; and

(B) Utah Water Right 41–3470 (A30414b), an unapproved application to segregate 12,000 acre-feet per year of water from the original approved Flaming Gorge water right (41–2963) for municipal use in the town of Dutch John and surrounding areas.

(4) CULINARY WATER SUPPLIES.—The transfer of water rights under this subsection is conditioned on the agreement of Daggett County to provide culinary water supplies to Forest Service campgrounds served (on the date of enactment of this Act) by the water supply system and to Forest Service and Bureau of Reclamation facilities, at a rate equivalent to other similar uses.

(5) MAINTENANCE.—The Secretary of Agriculture and the Secretary of the Interior shall be responsible for maintenance of their respective water systems from the point of the distribution lines of the systems.

(l) SHORELINE ACCESS.—On receipt of an acceptable application, the Secretary of Agriculture shall consider issuance of a special use permit affording Flaming Gorge Reservoir public shoreline access and use within the vicinity of Dutch John in conjunction with commercial visitor facilities provided and maintained under such a permit.

(m) REVENUES.—

(1) IN GENERAL.—Except as provided in paragraph (2), all revenues derived from the sale of

properties as authorized by this Act shall temporarily be deposited in a segregated interest-bearing trust account in the Treasury with the moneys on hand in the account paid to Daggett County semiannually to be used by the County for purposes associated with the provision of governmental and community services to the Dutch John community.

(2) DEPOSIT IN THE GENERAL FUND.—Of the revenues described in paragraph (1), 15.1 percent shall be deposited in the general fund of the Treasury.

SEC. 11. VALID EXISTING RIGHTS.

(a) AGREEMENTS.—

(1) IN GENERAL.—If any lease, permit, right-of-way, easement, or other valid existing right is appurtenant to land conveyed to Daggett County, Utah, under this Act, the County shall honor and enforce the right through a legal agreement entered into by the County and the holder before the date of conveyance.

(2) EXTENSION OR TERMINATION.—The County may extend or terminate an agreement under paragraph (1) at the end of the term of the agreement.

(b) USE OF REVENUES.—During such period as the County is enforcing a right described in subsection (a)(1) through a legal agreement between the County and the holder of the right under subsection (a), the County shall collect and retain any revenues due the Federal Government under the terms of the right.

(c) EXTINGUISHMENT OF RIGHTS.—If a right described in subsection (a)(1) with respect to certain land has been extinguished or otherwise protected, the County may dispose of the land.

SEC. 12. CULTURAL RESOURCES.

(a) MEMORANDA OF AGREEMENT.—Before transfer and disposal under this Act of any land that contains cultural resources and that may be eligible for listing on the National Register of Historic Places, the Secretary of Agriculture, in consultation with the Secretary of the Interior, the Utah Historic Preservation Office, and Daggett County, Utah, shall prepare a memorandum of agreement, for review and approval by the Utah Office of Historical Preservation and the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), that contains a strategy for protecting or mitigating adverse effects on cultural resources on the land.

(b) INTERIM PROTECTION.—Until such time as a memorandum of agreement has been approved, or until lands are disposed of under this Act, the Secretary of Agriculture shall provide clearance or protection for the resources.

(c) TRANSFER SUBJECT TO AGREEMENT.—On completion of actions required under the memorandum of agreement for certain land, the Secretary of the Interior shall provide for the conveyance of the land to Daggett County, Utah, subject to the memorandum of agreement.

SEC. 13. TRANSITION OF SERVICES TO LOCAL GOVERNMENT CONTROL.

(a) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Interior shall provide training and transitional operating assistance to personnel designated by Daggett County, Utah, as successors to the operators for the Secretary of the infrastructure facilities described in section 4(c).

(2) DURATION OF TRAINING.—With respect to an infrastructure facility, training under paragraph (1) shall continue for such period as is necessary for the designated personnel to demonstrate reasonable capability to safely and efficiently operate the facility, but not to exceed 2 years.

(3) CONTINUING ASSISTANCE.—The Secretary shall remain available to assist with resolving questions about the original design and installation, operating and maintenance needs, or other aspects of the infrastructure facilities.

(b) TRANSITION COSTS.—For the purpose of defraying costs of transition in administration and provision of basic community services, an annual payment of $300,000 (as adjusted by the Secretary for changes in the Consumer Price Index for all-urban consumers published by the Department of Labor) shall be provided from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d), to Daggett County, Utah, or, in accordance with subsection (c), to Dutch John, Utah, for a period not to exceed 15 years beginning the first January 1 that occurs after the date of enactment of this Act.

(c) DIVISION OF PAYMENT.—If Dutch John becomes incorporated and become responsible for operating any of the infrastructure facilities referred to in subsection (a)(1) or for providing other basic local governmental services, the payment amount for the year of incorporation and each following year shall be proportionately divided between Daggett County and Dutch John based on the respective costs paid by each government for the previous year to provide the services.

(d) ELECTRIC POWER.—

(1) AVAILABILITY.—The United States shall make available electric power and associated energy from the Colorado River Storage Project for the Dutch John community.

(2) AMOUNT.—The amount of electric power and associated energy made available under paragraph (1) shall not exceed 1,000,000 kilowatt-hours per year.

(3) RATES.—The rates for power and associated energy shall be the firm capacity and energy rates of the Salt Lake City Area/Integrated Projects.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) RESOURCE RECOVERY AND MITIGATION.—There are authorized to be appropriated to the Secretary of Agriculture, out of nonpower revenues to the Federal Government from land transferred under this Act, such sums as are necessary to implement such habitat, sensitive resource, or cultural resource recovery, mitigation, or replacement strategies as are developed with respect to land transferred under this Act, except that the strategies may not include acquisition of privately owned lands in Daggett County.

(b) OTHER SUMS.—In addition to sums made available under subsection (a), there are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendment was agreed to.

The bill (S. 890), as amended, was considered read the third time and passed.

IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1998

The Senate proceeded to consider the bill (S. 1398) to extend certain contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir, which had been reported from the Committee on Energy and Natural Resources, 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 ''Irrigation Project Contract Extension Act of 1998''.

SEC. 2. EXTENSION OF CONTRACTS.

(a) IN GENERAL.—The Secretary of the Interior shall extend each of the water service or repayment contracts for the Glendo Unit of the Missouri River Basin Project identified in subsection (c) until December 31, 2000.

(b) EXTENSIONS COTERMINOUS WITH COOPERATIVE AGREEMENT.—If the cooperative agreement entitled ''Cooperative Agreement for Platte River Research and other Efforts Relating to Endangered Species Habitats Along the Central Platte River, Nebraska'', entered into by the Governors of the States of Wyoming, Nebraska, and Colorado and the Secretary of the Interior, is extended for a term beyond December 31, 2000, the contracts identified in subsection (c) shall be extended for the same term, but not to go beyond December 31, 2001. If the cooperative agreement terminates prior to December 31, 2000, the contracts identified in subsection (c) shall be subject to renewal on the date that the cooperative agreement terminates.

(c) CONTRACTS.—The contracts identified in this subsection are—

(1) the contract between the United States and the New Grattan Ditch Company for water service from Glendo Reservoir (Contract No. 14–06–700–7591), dated March 7, 1974;

(2) the contract between the United States and Burbank Ditch for water service from Glendo Reservoir (Contract No. 14–06–700–6614), dated May 23, 1969;

(3) the contract between the United States and the Torrington Irrigation District for water service from Glendo Reservoir (Contract No. 14–06–700–1771), dated July 14, 1958;

(4) the contract between the United States and the Lucerne Canal and Power Company for water service from Glendo Reservoir (Contract No. 14–06–700–1740, as amended), dated June 12, 1958, and amended June 10, 1960;

(5) the contract between the United States and the Wright and Murphy Ditch Company for water service from Glendo Reservoir (Contract No. 14–06–700–1741), dated June 12, 1958;

(6) the contract between the United States and the Bridgeport Irrigation District for water service from Glendo Reservoir (Contract No. 14–06–700–8376, renumbered 6–07–70–W0126), dated July 9, 1976;

(7) the contract between the United States and the Enterprises Irrigation District for water service from Glendo Reservoir (Contract No. 14–06–700–1742), dated June 12, 1958;

(8)(A) the contract between the United States and the Mitchell Irrigation District for an increase in carryover storage capacity in Glendo Reservoir (Contract No. 14–06–700–1743, renumbered 8–07–70–W0056 Amendment No. 1), dated March 22, 1985; and

(B) the contract between the United States and the Mitchell Irrigation District for water service from Glendo Reservoir (Contract No. 14–06–700–1743, renumbered 8–07–70–W0056) dated June 12, 1958; and

(9) the contract between the United States and the Central Nebraska Public Power and Irrigation District for repayment of allocated irrigation costs of Glendo Reservoir (Contract No. 5–07–70–W0734), dated December 31, 1984.

(d) STATUTORY CONSTRUCTION.—Nothing in this section precludes the Secretary of the Interior from making an extension under subsection (a) or (b) in the form of annual extensions.

The committee amendment was agreed to.

The bill (S. 1398), as amended, was considered read the third time and passed.

FEDERAL POWER ACT EXTENSION

The bill (S. 2171) to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2171

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

SECTION 1. EXTENSION OF DEADLINES.

Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 10455 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of the project for up to a maximum of three consecutive two-year periods. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under section 13) of the period required for commencement of such project.

SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT OF 1998

The bill (H.R. 449) to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada, was considered, ordered to a third reading, read the third time, and passed.

Mr. REID. Mr. President, Clark County has seen phenomenal growth over the past ten years, and is the fastest growing county in the nation. This influx of new residents has put great pressure on the infrastructure of the region, and also the recreational assets. While no one thing can solve all the problems associated with the burgeoning growth rate that has occurred, we can take steps to control and manage it. The Southern Nevada Public Land Management Act has a long history and can trace its genesis back to Congressman Jim Santini, author of the Santini-Burton Act. Former Congressman Jim Bilbray continued this initiative with the public lands task force, a process which Senator BRYAN and I continued. It is from these efforts that the bill before us has evolved, with the input of Congressmen GIBBONS and ENSIGN.

This bill takes important steps by providing for the orderly disposal of public lands in southern Nevada, providing for the acquisition of environmentally sensitive lands in the state, and providing a mechanism for local governments to offset the costs associated with development of disposed federal lands. The distribution of the proceeds from federal land sales will give the federal government 85% for the acquisition of environmentally sensitive lands in Nevada. The State will use its 5% share for general education programs, while the remaining 10% will benefit the Las Vegas Valley water treatment programs, water infrastructure development, parks, and trails.

Mr. President, as we approach the 21st century, we have to be cognizant of our future generations and the legacy that we will leave them. Any growth that occurs in a community must have coordinated planning and this measure will greatly assist with this process by providing for local government involvement. It allows state, county and city governments to manage the costs associated with the development of these lands by adding to the state education fund, as well as assisting with the future development of the southern Nevada water system and airport infrastructure. It will also assist us in protecting and preserving wild and scenic places for future generations, which are of value not just to the residents of Clark County, but to all taxpayers.

This bill has the bipartisan support of the Nevada Congressional delegation, enjoys broad-based support in Clark County, and support throughout the State. It means a great deal to me personally and I believe it will be of enormous benefit to the State of Nevada.

GRANITE WATERSHED ENHANCEMENT AND PROTECTION ACT OF 1998

The Senate proceeded to consider the bill (H.R. 2886) to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform resource management activities for that unit of the National Forest System, which had been reported from the Committee on Energy and Natural Resources, with an amendment on page 2 to strike line 20 and insert in lieu thereof ''prescribed burns in the Granite watershed.''

The Committee amendment was agreed to.

The bill was considered, ordered to a third reading, read the third time, and passed.

ROGUE RIVER NATIONAL FOREST

The Senate proceeded to consider the bill (H.R. 3796) to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support building for the Rogue River National and the Bureau of Land Management, which had been reported from the Committee on Energy and Natural Resources, with an amendment on page 2, line 13 to strike ''provide'' and insert in lieu thereof ''accept.''

The Committee amendment was agreed to.

The bill was considered, ordered to a third reading, read the third time, and passed.

COASTAL HERITAGE TRAIL ROUTE

The bill (S. 1016) to amend the Elementary and Secondary Education Act of 1965 regarding charter schools, was considered, ordered to be engrossed for third reading, read the third time, and passed; as follows:

S. 1016

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) in subsection (b)(1), by striking ''$1,000,000'' and inserting ''$4,000,000''; and

(2) in subsection (c), by striking ''five'' and inserting ''10''.

LOWER EAST SIDE TENEMENT NATIONAL HISTORIC SITE ACT OF 1997

The bill (S. 1408) to establish the Lower East Side Tenement National Historic Site, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1408

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 ''Lower East Side Tenement National Historic Site Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1)(A) immigration, and the resulting diversity of cultural influences, is a key factor in defining the identity of the United States; and

(B) many United States citizens trace their ancestry to persons born in nations other than the United States;

(2) the latter part of the 19th century and the early part of the 20th century marked a period in which the volume of immigrants coming to the United States far exceeded that of any time prior to or since that period;

(3) no single identifiable neighborhood in the United States absorbed a comparable number of immigrants than the Lower East Side neighborhood of Manhattan in New York City;

(4) the Lower East Side Tenement at 97 Orchard Street in New York City is an outstanding survivor of the vast number of humble buildings that housed immigrants to New York City during the greatest wave of immigration in American history;

(5) the Lower East Side Tenement is owned and operated as a museum by the Lower East Side Tenement Museum;

(6) the Lower East Side Tenement Museum is dedicated to interpreting immigrant life within a neighborhood long associated with the immigrant experience in the United States, New York City's Lower East Side, and its importance to United States history; and

(7)(A) the Director of the National Park Service found the Lower East Side Tenement at 97 Orchard Street to be nationally significant; and

(B) the Secretary of the Interior declared the Lower East Side Tenement a National Historic Landmark on April 19, 1994; and

(C) the Director of the National Park Service, through a special resource study, found the Lower East Side Tenement suitable and feasible for inclusion in the National Park System.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure the preservation, maintenance, and interpretation of this site and to interpret at the site the themes of immigration, tenement life in the latter half of the 19th century and the first half of the 20th century, the housing reform movement, and tenement architecture in the United States;

(2) to ensure continued interpretation of the nationally significant immigrant phenomenon associated with New York City's

Lower East Side and the Lower East Side's role in the history of immigration to the United States; and

(3) to enhance the interpretation of the Castle Clinton, Ellis Island, and Statue of Liberty National Monuments.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) HISTORIC SITE.—The term ''historic site'' means the Lower East Side Tenement found at 97 Orchard Street on Manhattan Island in City of New York, State of New York, and designated as a national historic site by section 4.

(2) MUSEUM.—The term ''Museum'' means the Lower East Side Tenement Museum, a nonprofit organization established in City of New York, State of New York, which owns and operates the tenement building at 97 Orchard Street and manages other properties in the vicinity of 97 Orchard Street as administrative and program support facilities for 97 Orchard Street.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF HISTORIC SITE.

(a) IN GENERAL.—To further the purposes of this Act and the Act entitled ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 461 et seq.), the Lower East Side Tenement at 97 Orchard Street, in the City of New York, State of New York, is designated a national historic site.

(b) COORDINATION WITH NATIONAL PARK SYSTEM.—

(1) AFFILIATED SITE.—The historic site shall be an affiliated site of the National Park System.

(2) COORDINATION.—The Secretary, in consultation with the Museum, shall coordinate the operation and interpretation of the historic site with the Statue of Liberty National Monument, Ellis Island National Monument, and Castle Clinton National Monument. The historic site's story and interpretation of the immigrant experience in the United States is directly related to the themes and purposes of these National Monuments.

(c) OWNERSHIP.—The historic site shall continue to be owned, operated, and managed by the Museum.

SEC. 5. MANAGEMENT OF THE SITE.

(a) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the Museum to ensure the marking, interpretation, and preservation of the national historic site designated by section 4(a).

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may provide technical and financial assistance to the Museum to mark, interpret, and preserve the historic site, including making preservation-related capital improvements and repairs.

(c) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary, in consultation with the Museum, shall develop a general management plan for the historic site that defines the role and responsibility of the Secretary with regard to the interpretation and the preservation of the historic site.

(2) INTEGRATION WITH NATIONAL MONUMENTS.—The plan shall outline how interpretation and programming for the historic site shall be integrated and coordinated with the Statue of Liberty National Monument, Ellis Island National Monument, and Castle Clinton National Monument to enhance the story of the historic site and these National Monuments.

(3) COMPLETION.—The plan shall be completed not later than 2 years after the date of enactment of this Act.

(d) LIMITED ROLE OF SECRETARY.—Nothing in this Act authorizes the Secretary to acquire the property at 97 Orchard Street or to assume overall financial responsibility for the operation, maintenance, or management of the historic site.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

FORT DAVIS NATIONAL HISTORIC SITE

The bill (S. 1990) to authorize expansion of Fort Davis National Historic Site in Fort Davis, Texas, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1990

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

SECTION 1. EXPANSION OF FORT DAVIS NATIONAL HISTORIC SITE, FORT DAVIS, TEXAS.

The first section of the Act entitled ''An Act authorizing the establishment of a national historic site at Fort Davis, Jeff Davis County, Texas'', approved September 8, 1961 (75 Stat. 488; 16 U.S.C. 461 note), is amended by striking ''not to exceed four hundred and sixty acres'' and inserting ''not to exceed 476 acres''.

CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (S. 2232) to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the 1954 U.S. Supreme Court decision of Brown v. Board of Education, which mandated an end to the segregation of public schools, was one of the most significant Court decisions in the history of the United States;

(2) the admission of nine African-American students, known as the ''Little Rock Nine'', to Little Rock's Central High School as a result of the Brown decision, was the most prominent national example of the implementation of the Brown decision, and served as a catalyst for the integration of other, previously segregated public schools in the United States;

(3) 1997 marked the 70th anniversary of the construction of Central High School, which has been named by the American Institute of Architects as ''the most beautiful high school building in America'';

(4) Central High School was included on the National Register of Historic Places in 1977 and designated by the Secretary of the Interior as a National Historic Landmark in 1982 in recognition of its national significance in the development of the Civil Rights movement in the United States; and

(5) the designation of Little Rock Central High School as a unit of the National Park System will recognize the significant role the school played in the desegregation of public schools in the South and will interpret for future generations the events associated with early desegregation of southern schools.

(b) PURPOSE.—The purpose of this Act is to preserve, protect, and interpret for the benefit, education, and inspiration of present and future generations, Central High School in Little Rock, Arkansas, and its role in the integration of public schools and the development of the Civil Rights movement in the United States.

SEC. 2. ESTABLISHMENT OF CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—The Little Rock Central High School National Historic Site in the State of Arkansas (hereinafter referred to as the ''historic site'') is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the Central High School campus and adjacent properties in Little Rock, Arkansas, as generally depicted on a map entitled ''Proposed Little Rock Central High School National Historic Site'', numbered LIRO–20,000 and dated July, 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(b) ADMINISTRATION OF HISTORIC SITE.—The Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall administer the historic site in accordance with this Act. Only those lands under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (16 U.S.C. 461–467). Nothing in this Act shall affect the authority of the Little Rock School District to administer Little Rock Central High School nor shall this Act affect the authorities of the City of Little Rock in the neighborhood surrounding the school.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with appropriate public and private agencies, organizations, and institutions (including, but not limited to, the State of Arkansas, the City of Little Rock, the Little Rock School District, Central High Museum, Inc., Central High Neighborhood, Inc., or the University of Arkansas) in furtherance of the purposes of this Act.

(2) The Secretary shall coordinate visitor interpretation of the historic site with the Little Rock School District and the Central High School Museum, Inc.

(d) GENERAL MANAGEMENT PLAN.—Within three years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site. The plan shall be prepared in consultation and coordination with the Little Rock School District, the City of Little Rock, Central High Museum, Inc., and with other appropriate organizations and agencies. The plan shall identify specific roles and responsibilities for the National Park Service in administering the historic site, and shall identify lands or property, if any, that might be necessary for the National Park Service to acquire in order to carry out its responsibilities. The plan shall also identify the roles and responsibilities of other entities in administering the historic site and its programs. The plan shall include a management framework that ensures the administration of the historic site does not interfere with the continuing use of Central High School as an educational institution.

(e) ACQUISITION OF PROPERTY.—The Secretary is authorized to acquire by purchase with donated or appropriated funds by exchange, or donation the lands and interested therein located within the boundaries of the historic site: Provided, That the Secretary may only acquire lands or interests therein within the consent of the owner thereof: Provided further, That lands or interests therein owned by the State of Arkansas or a political subdivision thereof, may only be acquired by donation or exchange.

SEC. 3. DESEGREGATION IN PUBLIC EDUCATION THEME STUDY.

(a) THEME STUDY.—Within two years after the date funds are made available, the Secretary

shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a National Historic Landmark Theme Study (hereinafter referred to as the ''theme study'') on the history of desegregation in public education. The purpose of the theme study shall be to identify sites, districts, buildings, structures, and landscapes that best illustrate or commemorate key events or decisions in the historical movement to provide for racial desegregation in public education. On the basis of the theme study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

(b) OPPORTUNITIES FOR EDUCATION AND RESEARCH.—The theme study shall identify appropriate means to establish linkages between sites identified in subsection (a) and between those sites and the Central High School National Historic Site established in section 2, and with other existing units of the National Park System to maximize opportunities for public education and scholarly research on desegregation in public education. The theme study also shall recommend opportunities for cooperative arrangements with State and local governments, educational institutions, local historical organizations, and other appropriate entities to preserve and interpret key sites in the history of desegregation in public education.

(c) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with one or more educational institutions, public history organizations, or civil rights organizations knowledgeable about desegregation in public education to prepare the theme study and to ensure that the theme study meets scholarly standards.

(d) THEME STUDY COORDINATION WITH GENERAL MANAGEMENT PLAN.—The theme study shall be prepared as part of the preparation and development of the general management plan for the Little Rock Central High School National Historic Site established in section 2.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The Committee amendment was agreed to.

The bill (S. 2232), as amended, was considered read the third time and passed.

LAND AND WATER CONSERVATION FUND ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 1333) to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge entrance or admission fee to retain other fees and charges, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. USE OF CERTAIN RECREATIONAL FEES.

Section 4(i)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)(1)) is amended by adding at the end the following:

''(C) UNITS AT WHICH ENTRANCE FEES OR ADMISSIONS FEES CANNOT BE COLLECTED.—

''(i) WITHHOLDING OF AMOUNTS.—Notwithstanding subparagraph (A), section 315(c) of section 101(c) of the Omnibus Consolidated Recessions and Appropriations Act of 1996 (16 U.S.C. 460l–6a note; Public Law 104–134), or section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1998 (16 U.S.C. 460l–6a note; Public Law 105–83), the Secretary of the Interior shall withhold from the special account under subparagraph (A) 100 percent of the fees and charges collected in connection with any unit of the National Park System at which entrance fees or admission fees cannot be collected by reason of deed restrictions.

''(ii) USE OF AMOUNTS.—Amounts withheld under clause (i) shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary for the unit with respect to which the amounts were collected for the purposes of enhancing the quality of the visitor experience, protection of resources, repair and maintenance, interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement.''

The Committee amendment was agreed to.

The bill (S. 1333), as amended, was considered read the third time and passed.

DELAWARE AND LEHIGH NATIONAL HERITAGE CORRIDOR ACT AMENDMENTS OF 1998

The Senate proceeded to consider the bill (S. 1665) to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1665

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 ''Delaware and Lehigh National Heritage Corridor Act Amendments of 1998''.

SEC. 2. NAME CHANGE.

The Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4552) is amended by striking ''Delaware and Lehigh Navigation Canal National Heritage Corridor'' each place it appears (except section 4(a)) and inserting ''Delaware and Lehigh National Heritage Corridor''.

SEC. 3. PURPOSE.

Section 3(b) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4552) is amended—

(1) by inserting after ''subdivisions'' the following: ''in enhancing economic development within the context of preservation and''; and

(2) by striking ''and surrounding the Delaware and Lehigh Navigation Canal in the Commonwealth'' and inserting ''the Corridor''.

SEC. 4. CORRIDOR COMMISSION.

(a) MEMBERSHIP.—Section 5(b) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4553) is amended—

(1) in the matter preceding paragraph (1), by striking ''appointed not later than 6 months after the date of enactment of this Act'';

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

[''(2) 3 individuals appointed by the Secretary from among individuals recommended by the Governor, of whom—**]**

''(2) 3 individuals appointed by the Secretary upon consideration of individuals recommended by the governor, of whom—

''(A) 1 shall represent the Pennsylvania Department of Conservation and Natural Resources;

''(B) 1 shall represent the Pennsylvania Department of Community and Economic Development; and

''(C) 1 shall represent the Pennsylvania Historical and Museum Commission.'';

(3) in paragraph (3), by striking ''the Secretary, after receiving recommendations from the Governor, of whom'' and all that follows through ''Delaware Canal region'' and inserting the follow-**[**ing: ''the Secretary from among individuals recommended by the Governor, of whom—**]**

ing: ''the Secretary upon consideration of individuals recommended by the governor, of whom—

''(A) 1 shall represent a city, 1 shall represent a borough, and 1 shall represent a township; and

''(B) 1 shall represent each of the 5 counties of Luzerne, Carbon, Lehigh, Northampton, and Bucks in Pennsylvania''; and

(4) in paragraph (4)—

(A) by striking ''8 individuals'' and inserting ''9 individuals''; and

(B) by striking ''the Secretary, after receiving recommendations from the Governor, who shall have'' and all that follows through ''Canal region. A vacancy'' and inserting the **[**following: ''the Secretary from among individuals recommended by the Governor, of whom—**]**

following, ''the Secretary upon consideration of individuals recommended by the governor, of whom—

''(A) 3 shall represent the northern region of the Corridor;

''(B) 3 shall represent the middle region of the Corridor; and

''(C) 3 shall represent the southern region of the Corridor.

A vacancy''.

(b) TERMS.—Section 5 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4553) is amended by striking subsection (c) and inserting the following:

''(c) TERMS.—The following provisions shall apply to a member of the Commission appointed under paragraph (3) or (4) of subsection (b):

''(1) LENGTH OF TERM.—The member shall serve for a term of 3 years.

''(2) CARRYOVER.—The member shall serve until a successor is appointed by the Secretary.

''(3) REPLACEMENT.—If the member resigns or is unable to serve due to incapacity or death, the Secretary shall appoint, not later than 60 days after receiving a nomination of the appointment from the Governor, a new member to serve for the remainder of the term.

''(4) TERM LIMITS.—A member may serve for not more than 2 full terms starting after the date of enactment of this paragraph.''.

[(c) CONFIRMATION.—Section 5 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4553) is amended by adding at the end the following:

[''(h) CONFIRMATION.—The Secretary shall accept or reject an appointment under paragraph (3) or (4) of subsection (b) not later than 60 days after receiving a nomination of the appointment from the Governor.''.**]**

SEC. 5. POWERS OF THE COMMISSION.

(a) CONVEYANCE OF REAL ESTATE.—Section 7(g)(3) of the Delaware and Lehigh National

Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4555) is amended in the first sentence by inserting ''or nonprofit organization'' after ''appropriate public agency''.

(b) COOPERATIVE AGREEMENTS.—Section 7(h) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4555) is amended—

(1) in the first sentence, by inserting ''any nonprofit organization,'' after ''subdivision of the Commonwealth,''; and

(2) in the second sentence, by inserting ''such nonprofit organization,'' after ''such political subdivision,''.

[(c) GRANTS AND LOANS.—Section 7 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4554) is amended—

[(1) by redesignating subsection (i) as subsection (j); and

[(2) by inserting after subsection (h) the following:

[''(i) GRANTS AND LOANS.—The Commission may administer any grant or loan from amounts—

[''(1) appropriated to the Commission for the purpose of providing a grant or loan; or

[''(2) donated or otherwise made available to the Commission for the purpose of providing a grant or loan.''.**]**

SEC. 6. DUTIES OF THE COMMISSION.

Section 8(b) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4556) is amended in the matter preceding paragraph (1) by inserting '', cultural, natural, recreational, and scenic'' after ''interpret the historic''.

SEC. 7. TERMINATION OF THE COMMISSION.

Section 9(a) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4556) is amended by striking ''5 years after the date of enactment of this Act'' and inserting ''10 years after the date of enactment of the Delaware and Lehigh National Heritage Corridor Act Amendments of 1997''.

SEC. 8. DUTIES OF OTHER FEDERAL ENTITIES.

Section 11 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4557) is amended in the matter preceding paragraph (1) by striking ''the flow of the Canal or the natural'' and **[**inserting ''the historic, cultural, natural, recreational, or scenic''.**]**

inserting ''directly affecting the purposes of the Corridor''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—Section 12(a) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4558) is amended by striking ''$350,000'' and inserting ''$650,000''.

(b) MANAGEMENT ACTION PLAN.—Section 12 of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4558) is amended by adding at the end the following:

''(c) MANAGEMENT ACTION PLAN.—

''(1) IN GENERAL.—To implement the management action plan created by the Commission, there is authorized to be appropriated $1,000,000 for each of fiscal years 1998 through 2007.

''(2) LIMITATION ON EXPENDITURES.—Amounts made available under paragraph (1) shall not exceed 50 percent of the costs of implementing the management action plan.''.

SEC. 10. LOCAL AUTHORITY AND PRIVATE PROPERTY.

The Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4552) is amended—

(1) by redesignating section 13 as section 14; and

(2) by inserting after section 12 the following:

''SEC. 13. LOCAL AUTHORITY AND PRIVATE PROPERTY.

''The Commission shall not interfere with—

''(1) the private property rights of any person; or

''(2) any local zoning ordinance or land use plan of the Commonwealth of Pennsylvania or any political subdivision of Pennsylvania.''.

SEC. 11. DUTIES OF THE SECRETARY.

Section 10(d) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4557) is amended by striking the subsection and inserting—

''(d) TECHNICAL ASSISTANCE AND GRANTS.—The Secretary, upon request of the Commission, is authorized to provide grants and technical assistance to the Commission or units of government, nonprofit organizations, and other persons, for development and implementation of the Plan.''.

The Committee amendment was agreed to

The bill (S. 1665), as amended, was read the third time and passed.

HAWAII VOLCANOES NATIONAL PARK ADJUSTMENT ACT OF 1998

The bill (S. 2129) to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2129

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

SECION 1. SHORT TITLE.

This Act may be cited as the ''Hawaii Volcanoes National Park Adjustment Act of 1998''.

SEC. 2. HAWAII VOLCANOES NATIONAL PARK.

The first section of the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b), is amended by inserting before the period at the end the following: '', except for the land depicted on the map entitled 'NPS–PAC 1997HW', which may be purchased with donated or appropriated funds.''.

SUDBURY, ASSABET, AND CONCORD WILD AND SCENIC RIVERS ACT

The Senate proceeded to consider the bill (S. 469) to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers System, which had been reported from the Committee on Energy and Natural Resources, with an amendment; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 469

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 ''Sudbury, Assabet, and Concord Wild and Scenic Rivers Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Title VII of Public Law 101–628—

(A) designated segments of the Sudbury, Assabet, and Concord Rivers in the Commonwealth of Massachusetts, totaling 29 river miles, for study and potential addition to the National Wild and Scenic Rivers System; and

(B) directed the Secretary of the Interior to establish the Sudbury, Assabet, and Concord River Study Committee to advise the Secretary of the Interior in conducting the study and the consideration of management alternatives should the river be included in the National Wild and Scenic Rivers System.

(2) The study determined the following river segments are eligible for inclusion in the National Wild and Scenic Rivers System based on their free-flowing condition and outstanding scenic, recreation, wildlife, cultural, and historic values:

(A) The 16.6-mile segment of the Sudbury River beginning at the Danforth Street Bridge in the town of Framingham, to its confluence with the Assabet River.

(B) The 4.4-mile segment of the Assabet River from 1,000 feet downstream from the Damon Mill Dam in the town of Concord to the confluence with the Sudbury River at Egg Rock in Concord.

(C) The 8-mile segment of the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers to the Route 3 bridge in the town of Billerica.

(3) The towns that directly abut the segments, including Framingham, Sudbury, Wayland, Lincoln, Concord, Bedford, Carlisle, and Billerica, Massachusetts, have each demonstrated their desire for National Wild and Scenic River Designation through town meeting votes endorsing designation.

(4) During the study, the Study Committee and the National Park Service prepared a comprehensive management plan for the segment, entitled ''Sudbury, Assabet and Concord Wild and Scenic River Study, River Conservation Plan'', dated March 16, 1995, which establishes objectives, standards, and action programs that will ensure long-term protection of the rivers' outstanding values and compatible management of their land and water resources.

(5) The Study Committee voted unanimously on February 23, 1995, to recommend that the Congress include these segments in the National Wild and Scenic Rivers System for management in accordance with the River Conservation Plan.

SEC. 3. DESIGNATION.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

[''( ) SUDBURY, ASSABET, AND CONCORD RIVERS, MASSACHUSETTS.—The 29 miles of river segments in Massachusetts consisting of the Sudbury River from the Danforth Street Bridge in Framingham downstream to its confluence with the Assabet River at Egg Rock; the Assabet River from a point 1,000 feet downstream of the Damondale Dam in Concord to its confluence with the Sudbury River at Egg Rock; and the Concord River from its origin at Egg Rock in Concord downstream to the Route 3 bridge in Billerica (in this paragraph referred to as the 'segments'), as scenic and recreational river segments. The segments shall be administered by the Secretary of the Interior in cooperation with the SUASCO River Stewardship**]**

''( ) SUDBURY, ASSABET AND CONCORD RIVERS, MASSACHUSETTS.—The 29 miles of river segments in Massachusetts, as follows—

''(A) the 14.9-mile segment of the Sudbury River beginning at the Danforth Street Bridge in the town of Framingham, downstream to the Route 2 Bridge in Concord, as a scenic river;

''(B) the 1.7-mile segment of the Sudbury River from the Route 2 Bridge downstream to its confluence with the Assabet River at Egg Rock, as a recreational river;

''(C) the 4.4-mile segment of the Assabet River beginning 1,000 feet downstream from the

Damon Mill Dam in the town of Concord, to its confluence with the Sudbury River at Egg Rock in Concord; as a recreational river; and

''(D) the 8-mile segment of the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers downstream to the Route 3 Bridge in the town of Billerica, as a recreational river.

The segments shall be administered by the Secretary of the Interior in cooperation with the SUASCO River Stewardship Council provided for in the plan through cooperative agreements under section 10(e) between the Secretary and the Commonwealth of Massachusetts and its relevant political subdivisions (including the towns of Framingham, Wayland, Sudbury, Lincoln, Concord, Carlisle, Bedford, and Billerica). The segments shall be managed in accordance with the plan entitled 'Sudbury, Assabet and Concord Wild and Scenic River Study, River Conservation Plan' dated March 16, 1995. The plan is deemed to satisfy the requirement for a comprehensive management plan under section 3(d).''.

SEC. 4. MANAGEMENT.

(a) FEDERAL ROLE.—(1) The Director of the National Park Service or his or her designee shall represent the Secretary in the implementation of the Plan and the provisions of this Act and the Wild and Scenic Rivers Act with respect to each of the segments designated by section 3, including the review of proposed federally assisted water resources projects that could have a direct and adverse effect on the values for which the segment is established, as authorized under section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)).

(2) Pursuant to sections 10(e) and section 11(b)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e), 1282(b)(1)), the Director shall offer to enter into cooperative agreements with the Commonwealth of Massachusetts, its relevant political subdivisions, the Sudbury Valley Trustees, and the Organization for the Assabet River. Such cooperative agreements shall be consistent with the Plan and may include provisions for financial or other assistance from the United States to facilitate the long-term protection, conservation, and enhancement of each of the segments designated by section 3 of this Act.

(3) The Director may provide technical assistance, staff support, and funding to assist in the implementation of the Plan, except that the total cost to the Federal Government of activities to implement the Plan may not exceed $100,000 each fiscal year.

(4) Notwithstanding section 10(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(c)), any portion of a segment not already within the National Park System shall not under this Act—

(A) become a part of the National Park System;

(B) be managed by the National Park Service; or

(C) be subject to regulations which govern the National Park System.

(b) WATER RESOURCES PROJECTS.—(1) In determining whether a proposed water resources project would have a direct and adverse effect on the values for which the segments designated under section 3 were included in the National Wild and Scenic Rivers System, the Secretary shall specifically consider the extent to which the project is consistent with the Plan.

(2) The Plan, including the detailed Water Resources Study incorporated by reference therein and such additional analysis as may be incorporated in the future, shall serve as the primary source of information regarding the flows needed to maintain instream resources and potential compatibility between resource protection and possible additional water withdrawals.

(c) LAND MANAGEMENT.—(1) The zoning bylaws of the towns in Framingham, Sudbury, Wayland, Lincoln, Concord, Carlisle, Bedford, and Billerica, Massachusetts, as in effect on the date of enactment of this Act, are deemed to satisfy the standards and requirements under section 6(c) of the Wild and Scenic rivers Act (16 U.S.C. 1277(c)). For the purpose of that section, the towns are deemed to be ''villages'' and the provisions of that section which prohibit Federal acquisition of lands through condemnation shall apply.

(2) The United States Government shall not acquire by any means title to land, easements, or other interests in land along the segments designated under section 3 or their tributaries for the purposes of designation of the segments under section 3. Nothing in this Act shall prohibit Federal acquisition of interests in land along those segments or tributaries under other laws for other purposes.

SEC. 5. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term ''Director'' means the Director of the National Park Service.

(2) PLAN.—The term ''Plan'' means the plan prepared by the Study Committee and the National Park Service entitled ''Sudbury, Assabet and Concord Wild and Scenic River Study, River Conservation Plan'' and dated March 16, 1995.

(3) STUDY COMMITTEE.—The term ''Study Committee'' means the Sudbury, Assabet, and Concord River Study Committee established by the Secretary of the Interior under title VII of Public Law 101–628.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Interior to carry out this Act not to exceed $100,000 for each fiscal year.

The committee amendment was agreed to.

The bill (S. 469), as amended, was considered read the third time and passed.

GRANT-KOHRS RANCH NATIONAL HISTORIC SITE

The bill (S. 2272) to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2227

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 ''Grant-Kohrs Ranch National Historic Site Boundary Adjustment Act of 1998''.

SEC. 2. ADDITIONS TO GRANT-KOHRS RANCH NATIONAL HISTORIC SITE.

The Act entitled ''An Act to authorize the establishment of the Grant-Kohrs Ranch National Historic Site in the State of Montana, and for other purposes'', approved August 25, 1972 (86 Stat. 632), is amended by striking the last sentence in the first section and inserting: ''The boundary of the National Historic Site shall be as generally described on a map entitled, ''Boundary Map, Grant-Kohrs Ranch National Historic Site'', numbered 80030–B, and dated January, 1998, which shall be on file and available for public inspection in the local and Washington, District of Columbia, offices of the National Park Service, Department of the Interior.''.

WEIR FARM NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (S. 1718) to amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities and to authorize the appropriation of additional amounts for the acquisition of real and personal property, which had been reported from the Committee on Energy and Natural Resources, with an amendment; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1718

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

SECTION 1. WEIR FARM NATIONAL HISTORIC SITE, CONNECTICUT.

(a) ACQUISITION OF LAND FOR VISITOR AND ADMINISTRATIVE FACILITIES.—Section 4 of the Weir Farm National Historic Site Establishment Act of 1990 (16 U.S.C. 461 note; Public Law 101–485; 104 Stat. 1171) is amended by adding at the end the following:

''(d) ACQUISITION OF LAND FOR VISITOR AND ADMINISTRATIVE FACILITIES; LIMITATIONS.—

''(1) ACQUISITION.—

''(A) IN GENERAL.—To preserve and maintain the historic setting and character of the historic site, the Secretary may acquire not more than 15 additional acres for the development of visitor and administrative facilities for the historic site.

''(B) PROXIMITY.—The property acquired under this subsection shall be contiguous to or in close proximity to the property described in subsection (b).

''(C) MANAGEMENT.—The acquired property shall be included within the boundary of the historic site and shall be managed and maintained as part of the historic site.

[''(2) DEVELOPMENT.—

[''(A) IN GENERAL.—The Secretary shall keep development of the property acquired under paragraph (1) to a minimum so that the character of the acquired property will be similar to the natural and undeveloped landscape of the property described in subsection (b).

[''(B) PARKING AREA.—Any parking area for the resulting visitor and administrative facility shall not exceed 30 spaces.

[''(C) SALES.—Items sold in the visitor facilities—

[''(i) shall be limited to educational and interpretive materials related to the purpose of the historic site; and

[''(ii) shall not include food.**]**

''(2) DEVELOPMENT.—The Secretary shall keep development of the property acquired under paragraph (1) to a minimum so that the character of the acquired property will be similar to the natural and undeveloped landscape of the property described in subsection (b).

''(3) AGREEMENTS.—Prior to and as a prerequisite to any development of visitor and administrative facilities on the property acquired under paragraph (1), the Secretary shall enter into 1 or more agreements with the appropriate zoning authority of the town of Ridgefield, Connecticut, and the town of Wilton, Connecticut, for the purposes of—

''(A) developing the parking, visitor, and administrative facilities for the historic site; and

''(B) managing bus traffic to the historic site and limiting parking for large tour buses to an offsite location.''.

(b) INCREASE IN MAXIMUM ACQUISITION AUTHORITY.—Section 7 of the Weir Farm National Historic Site Act of 1990 (16 U.S.C. 461 note; Public Law 101–485; 104 Stat. 1173) is amended by striking ''$1,500,000'' and inserting ''$4,000,000''.

The committee amendment was agreed to.

The bill (S. 1718), as amended, was considered read the third time and passed.

ARCHES NATIONAL PARK EXPANSION ACT OF 1998

The Senate proceeded to consider the bill (S. 2106) to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2106

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 ''Arches National Park Expansion Act of 1998''.

SEC. 2. EXPANSION OF ARCHES NATIONAL PARK, UTAH.

(a) BOUNDARY EXPANSION.—The first section of Public Law 92–155 (16 U.S.C. 272) is amended—

(1) by striking ''That (a) subject to'' and inserting the following:

''SECTION 1. ESTABLISHMENT OF PARK.

''(a) IN GENERAL.—

''(1) INITIAL BOUNDARIES.—Subject to''; and

(2) by striking ''Such map'' and inserting the following:

''(2) EXPANDED BOUNDARIES.—Effective on the date of enactment of this paragraph, the boundary of the park shall include the area consisting of approximately 3,140 acres and known as the 'Lost Spring Canyon Addition', as depicted on the map entitled 'Boundary Map, Arches National Park, Lost Spring Canyon Addition', numbered 138/60,000–B, and dated April 1997.

''(3) MAPS.—The maps described in paragraphs (1) and (2)''.

(b) INCLUSION OF LAND IN PARK.—Section 2 of Public Law 92–155 (16 U.S.C. 272a) is amended—

(1) by striking ''SEC. 2. The Secretary'' and inserting the following:

''SEC. 2. ACQUISITION OF PROPERTY.

''(a) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(b) LOST SPRING CANYON ADDITION.—As soon as practicable after the date of enactment of this subsection, the Secretary shall transfer jurisdiction over the Federal land contained in the Lost Spring Canyon Addition from the Bureau of Land Management to the National Park Service.''.

(c) LIVESTOCK GRAZING.—Section 3 of Public Law 92–155 (16 U.S.C. 272b) is amended—

(1) by striking ''SEC. 3. Where'' and inserting the following:

''SEC. 3. LIVESTOCK GRAZING.

''(a) IN GENERAL.—In a case in which''; and

(2) by adding at the end the following:

''(b) LOST SPRING CANYON ADDITION.—

''(1) CONTINUATION OF GRAZING LEASES, PERMITS, AND LICENSES.—In the case of any grazing lease, permit, or license with respect to land in the Lost Spring Canyon Addition that was issued before the date of enactment of this subsection, the Secretary shall, subject to periodic renewal, continue the grazing lease, permit, or license for a period equal to the lifetime of the holder of the grazing lease, permit, or license as of that date plus the lifetime of any direct descendants of the holder born before that date.

''(2) RETIREMENT.—A grazing lease, permit, or license described in paragraph (1) shall be permanently retired at the end of the period described in paragraph (1).

''(3) PERIODIC RENEWAL.—Until the expiration of the period described in paragraph (1), the holder (or descendant of the holder) of a grazing lease, permit, or license shall be entitled to renew the lease, permit, or license periodically, subject to such limitations, conditions, or regulations as the Secretary may prescribe.

''(4) SALE.—A grazing lease, permit, or license described in paragraph (1) may be sold during the period described in paragraph (1) only on the condition that the purchaser shall, immediately upon acquisition, permanently retire the lease, permit, or license.

''(5) TAYLOR GRAZING ACT.—Nothing in this subsection affects other provisions concerning leases, permits, or licenses under the Act of June 28, 1934 (commonly known as the 'Taylor Grazing Act') (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.).

''(6) ADMINISTRATION.—Any portion of a grazing lease, permit, or license with respect to land in the Lost Spring Canyon Addition shall be administered by the National Park Service.''.

(d) WITHDRAWAL FROM MINERAL ENTRY AND LEASING; PIPELINE MANAGEMENT.—Section 5 of Public Law 92–155 (16 U.S.C. 272d) is amended—

[(1) by striking ''SEC. 5. (a) The National Park Service'' and inserting the following:

[''SEC. 5. ADMINISTRATION, PROTECTION, AND DEVELOPMENT.

[''(a) IN GENERAL.—The Director of the National Park Service''; and**]**

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—The Secretary shall administer, protect and develop the park in accordance with the provisions of the law generally applicable to units of the National Park System, including the Act entitled 'An Act to establish a National Park Service, and for other purposes', approved August 25, 1916 (39 Stat. 535)''; and

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

''(b) LOST SPRING CANYON ADDITION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, all Federal land in the Lost Spring Canyon Addition is appropriated and withdrawn from entry, location, selection, leasing, or other disposition under the public land laws (including the mineral leasing laws).

''(2) EFFECT.—The inclusion of the Lost Spring Canyon Addition in the park shall not affect the operation or maintenance by the Northwest Pipeline Corporation (or its successors or assigns) of the natural gas pipeline and related facilities located in the Lost Spring Canyon Addition on the date of enactment of this paragraph.''.

(e) EFFECT ON SCHOOL TRUST LAND.—

(1) FINDINGS.—Congress finds that—

(A) a parcel of State school trust land, more specifically described as section 16, township 23 south, range 22 east, of the Salt Lake base and meridian, is partially contained within the Lost Spring Canyon Addition included within the boundaries of Arches National Park by the amendment by subsection (a);

(B) the parcel was originally granted to the State of Utah for the purpose of generating revenue for the public schools through the development of natural and other resources located on the parcel; and

(C) it is in the interest of the State of Utah and the United States for the parcel to be exchanged for Federal land of equivalent value outside the Lost Spring Canyon Addition to permit Federal management of all lands within the Lost Spring Canyon Addition.

(2) LAND EXCHANGE.—Public Law 92–155 (16 U.S.C. 272 et seq.) is amended by adding at the end the following:

''SEC. 8. LAND EXCHANGE INVOLVING SCHOOL TRUST LAND.

''(a) EXCHANGE REQUIREMENT.—

''(1) IN GENERAL.—If, not later than 1 year after the date of enactment of this section, and in accordance with this section, the State of Utah offers to transfer all right, title, and interest of the State in and to the school trust land described in subsection (b)(1) to the United States, the Secretary—

''(A) shall accept the offer on behalf of the United States; and

''(B) not later than 180 days after the date of acceptance, shall convey to the State of Utah all right, title, and interest of the United States in and to the land described in subsection (b)(2).

''(2) SIMULTANEOUS CONVEYANCES.—Title to the school trust land shall be conveyed at the same time as conveyance of title to the Federal lands by the Secretary.

''(3) VALID EXISTING RIGHTS.—The land exchange under this section shall be subject to valid existing rights, and each party shall succeed to the rights and obligations of the other party with respect to any lease, right-of-way, or permit encumbering the exchanged land.

''(b) DESCRIPTION OF PARCELS.—

''(1) STATE CONVEYANCE.—The school trust land to be conveyed by the State of Utah under subsection (a) is section 16, Township 23 South, Range 22 East of the Salt Lake base and meridian.

''(2) FEDERAL CONVEYANCE.—The Federal land to be conveyed by the Secretary consists of approximately 639 acres, described as lots 1 through 12 located in the S½N½ and the N½N½N½S½ of section 1, Township 25 South, Range 18 East, Salt Lake base and meridian.

''(3) EQUIVALENT VALUE.—The Federal land described in paragraph (2) shall be considered to be of equivalent value to that of the school trust land described in paragraph (1).

''(c) MANAGEMENT BY STATE.—

''(1) IN GENERAL.—At least 60 days before undertaking or permitting any surface disturbing activities to occur on land acquired by the State of Utah under this section, the State shall consult with the Utah State Office of the Bureau of Land Management concerning the extent and impact of such activities on Federal land and resources and conduct, in a manner consistent with Federal law, inventory, mitigation, and management activities in connection with any archaeological, paleontological, and cultural resources located on the acquired lands.

''(2) PRESERVATION OF EXISTING USES.—To the extent that it is consistent with applicable law governing the use and disposition of State school trust land, the State shall preserve existing grazing, recreational, and wildlife uses of the acquired lands in existence on the date of enactment of this section.

''(3) ACTIVITIES AUTHORIZED BY MANAGEMENT PLAN.—Nothing in this subsection precludes the State of Utah from authorizing or undertaking a surface or mineral activity

that is authorized by a land management plan for the acquired land.

''(d) IMPLEMENTATION.—Administrative actions necessary to implement the land exchange under this section shall be completed not later than 180 days after the date of enactment of this section.''.

The committee amendment was agreed to. The bill (S. 2106), as amended was considered, read the third time an passed.

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

The bill (H.R. 3903) to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes. was considered, ordered to a third reading, read the third time, and passed.

GALLATIN LAND CONSOLIDATION ACT OF 1998

The bill (H.R. 3381) to direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities, was considered read the third time, and passed.

UNANIMOUS CONSENT AGREEMENT—H.R. 2186 AND S. 1719

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following bills, en bloc: Calendar No. 564, H.R. 2186 and Calendar No. 572, S. 1719.

I ask unanimous consent that amendment No. 3680, to H.R. 2186 and amendment No. 3681 to S. 1719 be considered agreed to the appropriate bills, en bloc. I further ask consent that any committee amendments be agreed to as necessary, the bills be read the third time and passed, any title amendments be agreed to, and the motions to reconsider be laid upon the table, any statements relating to the measures appear at this point in the RECORD, and the preceding all occur en bloc.

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

NATIONAL HISTORIC TRAILS INTERPRETIVE CENTER

The Senate proceeded to consider the bill (H.R. 2186) to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming.

The amendment (No. 3680) was agreed to, as follows:

AMENDMENT NO. 3680

(Purpose: To delete concession provisions)

On page 6, beginning on line 2 strike ''and, subject to the availability of appropriations,'' and insert ''and''.

On page 6 line 12 strike ''subject to appropriations,''.

On page 6 strike section [e] in its entirety and renumber the remaining sections accordingly.

The bill (H.R. 2186), as amended, was passed.

GALLATIN LAND CONSOLIDATION ACT OF 1998

The Senate proceeded to consider the bill (S. 1719) to direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co., which had been reported from the Committee on Energy and Natural Resources, 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 ''Gallatin Land Consolidation Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the land north of Yellowstone National Park possesses outstanding natural characteristics and wildlife habitats that make the land a valuable addition to the National Forest System;

(2) it is in the interest of the United States to establish a logical and effective ownership pattern for the Gallatin National Forest, reducing long-term costs for taxpayers and increasing and improving public access to the forest;

(3) it is in the interest of the United States for the Secretary of Agriculture to enter into an Option Agreement for the acquisition of land owned by Big Sky Lumber Co. to accomplish the purposes of this Act;

(4) other private property owners are willing to enter into exchanges that further improve the ownership pattern of the Gallatin National Forest; and

(5) BSL, acting in good faith, has shouldered many aspects of the financial burden of the appraisal and subsequent option and exchange process.

SEC. 3. DEFINITIONS.

In this Act:

(1) BLM LAND.—The term ''BLM land'' means approximately 2,000 acres of Bureau of Land Management land (including all appurtenances to the land) that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(2) BSL.—The term ''BSL'' means Big Sky Lumber Co., an Oregon joint venture, and its successors and assigns, and any other entities having a property interest in the BSL land.

(3) BSL LAND.—The term ''BSL land'' means approximately 54,000 acres of land (including all appurtenances to the land except as provided in section 4(e)(1)(D)(i)) owned by BSL that is proposed to be acquired by the Secretary of Agriculture, as depicted in Exhibit A to the Option Agreement.

(4) EASTSIDE NATIONAL FORESTS.—The term ''Eastside National Forests'' means national forests east of the Continental Divide in the State of Montana, including the Beaver Head National Forest, Deer Lodge National Forest, Helena National Forest, Custer National Forest, and Lewis and Clark National Forest.

(5) NATIONAL FOREST SYSTEM LAND.—The term ''National Forest System land'' means approximately 29,000 acres of land (including all appurtenances to the land) owned by the United States in the Gallatin National Forest, Flathead National Forest, Deer Lodge National Forest, Helena National Forest, Lolo National Forest, and Lewis and Clark National Forest that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(6) OPTION AGREEMENT.—The term ''Option Agreement'' means—

(A) the document signed by BSL, dated July 29, 1998 and entitled ''Option Agreement for the Acquisition of Big Sky Lumber Co. Lands Pursuant to the Gallatin Range Consolidation and Protection Act of 1993'';

(B) the exhibits and maps attached to the document described in subparagraph (A); and

(C) an exchange agreement to be entered into between the Secretary and BSL and made part of the document described in subparagraph (A).

(7) SECRETARY.—The ''Secretary'' means the Secretary of Agriculture.

SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the terms and conditions of the Option Agreement—

(1) if BSL offers title acceptable to the Secretary to the BSL land—

(A) the Secretary shall accept a warranty deed to the BSL land and a quit claim deed to agreed to mineral interests in the BSL land;

(B) the Secretary shall convey to BSL, subject to valid existing rights and to other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary and BSL, fee title to the National Forest System land; and

(C) the Secretary of the Interior shall convey to BSL, by patent or otherwise, subject to valid existing rights and other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary of the Interior and BSL, fee title to the BLM land;

(2) if BSL places title in escrow acceptable to the Secretary to 11½ sections of the BSL land in the Taylor Fork area as set forth in the Option Agreement—

(A) the Secretary shall place Federal land in the Bangtail and Doe Creek areas of the Gallatin National Forest, as identified in the Option Agreement, in escrow pending conveyance to the Secretary of the Taylor Fork land, as identified in the Option Agreement in escrow;

(B) the Secretary, subject to the availability of appropriations, shall purchase 7½ sections of BSL land in the Taylor Fork area held in escrow and identified in the Option Agreement at a purchase price of $4,150,000 plus interest at a rate acceptable to the Secretary; and

(C) the Secretary shall acquire the 4 Taylor Fork sections identified in the Option Agreement remaining in escrow, and any of the 6 sections referred to in subparagraph (B) for which appropriations are not available, by providing BSL with timber sale receipts from timber sales on the Gallatin National Forest and other eastside national forests in the State of Montana in accordance with subsection (c); and

(3)(A) as appropriated funds or timber sale receipts are received by BSL—

(i) the deeds to an equivalent value of BSL Taylor Fork land held in escrow shall be released and conveyed to the Secretary; and

(ii) the escrow of deeds to an equivalent value of Federal land shall be released to the Secretary in accordance with the terms of the Option Agreement; or

(B) if appropriated funds or timber sale receipts are not provided to BSL as provided in the Option Agreement, BSL shall be entitled to receive patents and deeds to an equivalent value of the Federal land held in escrow.

(b) VALUATION.—

(1) IN GENERAL.—The property and other assets exchanged or conveyed by BSL and the United States under subsection (a) shall be approximately equal in value, as determined by the Secretary.

(2) DIFFERENCE IN VALUE.—To the extent that the property and other assets exchanged or conveyed by BSL or the United States under subsection (a) are not approximately equal in value, as determined by the Secretary, the values shall be equalized in accordance with methods identified in the Option Agreement.

(c) TIMBER SALE PROGRAM.—

(1) IN GENERAL.—The Secretary shall implement a timber sale program, according to the terms and conditions identified in the Option Agreement and subject to compliance with applicable environmental laws, judicial decisions, and acts beyond the control of the Secretary, to generate sufficient timber receipts to purchase the portions of the BSL land in Taylor Fork identified in the Option Agreement.

(2) IMPLEMENTATION.—In implementing the timber sale program—

(A) the Secretary shall provide BSL with a proposed annual schedule of timber sales;

(B) as set forth in the Option Agreement, receipts generated from the timber sale program shall be deposited by the Secretary in a special account established by the Secretary and paid by the Secretary to BSL;

(C) receipts from the Gallatin National Forest shall not be subject to the Act of May 23, 1908 (16 U.S.C. 500); and

(D) the Secretary shall fund the timber sale program at levels determined by the Secretary to be commensurate with the preparation and administration of the identified timber sale program.

(d) RIGHTS-OF-WAY.—As specified in the Option Agreement—

(1) the Secretary, under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), shall convey to BSL such easements in or other rights-of-way over National Forest System land for access to the land acquired by BSL under this Act for all lawful purposes; and

(2) BSL shall convey to the United States such easements in or other rights-of-way over land owned by BSL for all lawful purposes, as may be agreed to by the Secretary and BSL.

(e) QUALITY OF TITLE.—

(1) DETERMINATION.—The Secretary shall review the title for the BSL land described in subsection (a) and, within 45 days after receipt of all applicable title documents from BSL, determine whether—

(A) the applicable title standards for Federal land acquisition have been satisfied and the quality of the title is otherwise acceptable to the Secretary of Agriculture;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the title includes both the surface and subsurface estates without reservation or exception (except as specifically provided in this Act), including—

(i) minerals, mineral rights, and mineral interests (including severed oil and gas surface rights), subject to and excepting other outstanding or reserved oil and gas rights;

(ii) timber, timber rights, and timber interests (except those reserved subject to section 251.14 of title 36, Code of Federal Regulations, by BSL and agreed to by the Secretary);

(iii) water, water rights, ditch, and ditch rights;

(iv) geothermal rights; and

(v) any other interest in the property.

(2) CONVEYANCE OF TITLE.—

(A) IN GENERAL.—If the quality of title does not meet Federal standards or is otherwise determined to be unacceptable to the Secretary of Agriculture, the Secretary shall advise BSL regarding corrective actions necessary to make an affirmative determination under paragraph (1).

(B) TITLE TO SUBSURFACE ESTATE.—Title to the subsurface estate shall be conveyed by BSL to the Secretary in the same form and content as that estate is received by BSL from Burlington Resources Oil & Gas Company Inc. and Glacier Park Company.

(f) TIMING OF IMPLEMENTATION.—

(1) LAND-FOR-LAND EXCHANGE.—The Secretary shall accept the conveyance of land described in subsection (a) not later than 45 days after the Secretary has made an affirmative determination of quality of title.

(2) LAND-FOR-TIMBER SALE RECEIPT EXCHANGE.—As provided in subsection (c) and the Option Agreement, the Secretary shall make timber receipts described in subsection (a)(3) available not later than December 31 of the fifth full calendar year that begins after the date of enactment of this Act.

(3) PURCHASE.—The Secretary shall complete the purchase of BSL land under subsection (a)(4) not later than 30 days after the date on which appropriated funds are made available and an affirmative determination of quality of title is made with respect to the BSL land.

SEC. 5. OTHER FACILITATED EXCHANGES.

(a) AUTHORIZED EXCHANGES.—

(1) IN GENERAL.—The Secretary shall enter into the following land exchanges if the landowners are willing:

(A) Wapiti land exchange, as outlined in the documents entitled ''Non-Federal Lands in Facilitated Exchanges'' and ''Federal Lands in Facilitated Exchanges'' and dated July 1998.

(B) Eightmile/West Pine land exchange as outlined in the documents entitled ''Non-Federal Lands in Facilitated Exchanges'' and ''Federal Lands in Facilitated Exchanges'' and dated July 1998.

(2) EQUAL VALUE.—Before entering into an exchange under paragraph (1), the Secretary shall determine that the parcels of land to be exchanged are of approximately equal value, based on an appraisal.

(b) SECTION 1 OF THE TAYLOR FORK LAND.—

(1) IN GENERAL.—The Secretary is encouraged to pursue a land exchange with the owner of section 1 of the Taylor Fork land after completing a full public process and an appraisal.

(2) REPORT.—The Secretary shall report to Congress on the implementation of paragraph (1) not later than 180 days after the date of enactment of this Act.

SEC. 6. GENERAL PROVISIONS.

(a) MINOR CORRECTIONS.—

(1) IN GENERAL.—The Option Agreement shall be subject to such minor corrections and supplemental provisions as may be agreed to by the Secretary and BSL.

(2) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and each member of the Montana congressional delegation of any changes made under this subsection.

(3) BOUNDARY ADJUSTMENT.—

(A) IN GENERAL.—The boundary of the Gallatin National Forest is adjusted in the Wineglass and North Bridger area, as described on maps dated July 1998, upon completion of the conveyances.

(B) NO LIMITATION.—Nothing in this subsection limits the authority of the Secretary to adjust the boundary pursuant to section 11 of the Act of March 1, 1911 (commonly known as the ''Weeks Act'') (16 U.S.C. 521).

(C) ALLOCATION OF LAND AND WATER CONSERVATION FUND MONEYS.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), boundaries of the Gallatin National Forest shall be considered to be the boundaries of the National Forest as of January 1, 1965.

(b) PUBLIC AVAILABILITY.—The Option Agreement—

(1) shall be on file and available for public inspection in the office of the Supervisor of the Gallatin National Forest; and

(2) shall be filed with the county clerk of each of Gallatin County, Park County, Madison County, Granite County, Broadwater County, Meagher County, Flathead County, and Missoula County, Montana.

(c) COMPLIANCE WITH OPTION AGREEMENT.—The Secretary, the Secretary of the Interior, and BSL shall comply with the terms and conditions of the Option Agreement except to the extent that any provision of the Option Agreement conflicts with this Act.

(d) CONVEYANCE OF TIMBER.—After completion of the land-for-land exchange under section 4(a)(1), the Secretary shall convey to BSL 1,000,000 board feet of timber from roaded land in the Gallatin National Forest, which—

(1) shall be treated as reserved timber under section 251.14 of title 36, Code of Federal Regulations; and

(2) shall not be considered as part of the appraisal value of land exchanged under this Act.

(e) STATUS OF LAND.—All land conveyed to the United States under this Act shall be added to and administered as part of the Gallatin National Forest and Deerlodge National Forest, as appropriate, in accordance with the Act of March 1, 1911 (5 U.S.C. 515 et seq.), and other laws (including regulations) pertaining to the National Forest System.

(f) MANAGEMENT.—

(1) PUBLIC PROCESS.—Not later than 30 days after the date of completion of the land-for-land exchange under section 4(f)(1), the Secretary shall initiate a public process to amend the Gallatin National Forest Plan and the Deerlodge National Forest Plan to integrate the acquired land into the plans.

(2) PROCESS TIME.—The amendment process under paragraph (1) shall be completed as soon as practicable, and in no event later than 540 days after the date on which the amendment process is initiated.

(3) LIMITATION.—An amended management plan shall not permit surface occupancy on the acquired land for access to reserved or outstanding oil and gas rights or for exploration or development of oil and gas.

(4) INTERIM MANAGEMENT.—Pending completion of the forest plan amendment process under paragraph (1), the Secretary shall—

(A) manage the acquired land under the standards and guidelines in the applicable land and resource management plans for adjacent land managed by the Forest Service; and

(B) maintain all existing public access to the acquired land.

(g) RESTORATION.—

(1) IN GENERAL.—The Secretary shall implement a restoration program including reforestation and watershed enhancements to bring the acquired land and surrounding national forest land into compliance with Forest Service standards and guidelines.

(2) STATE AND LOCAL CONSERVATION CORPS.—In implementing the restoration program, the Secretary shall, when practicable, use partnerships with State and local conservation corps, including the Montana Conservation Corps, under the Public Lands Corps Act of 1993 (16 U.S.C. 1721 et seq.).

(h) IMPLEMENTATION.—The Secretary of Agriculture shall ensure that sufficient funds are made available to the Gallatin National Forest to carry out this Act.

(i) REVOCATIONS.—Notwithstanding any other provision of law, any public orders withdrawing lands identified in the Option Agreement from all forms of appropriation under the public land laws are revoked upon conveyance of the lands by the Secretary.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

FEDERAL LANDS IN FACILITATED EXCHANGES

EIGHTMILE/WEST PINE (WILSON)
(Gallatin NF)

Parcel & map #	Legal description	County	Ranger district	Acres
	T5S, R8E, Sec 6, Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼	Park	Livingston	643.62
	Total			643.62

WAPITI (KELSEY)
(Gallatin NF)

Parcel & map #	Legal description	County	Ranger district	Acres
1	T9S, R4E, Sec 9, SW¼SW¼	Gallatin	Hebgen Lake	40
2	T9S, R4E, Sec 7, Lot 3 (portion S. of T. Fork Rd.) Lot 4, SW¼SW¼, E½SE¼SW¼.	Gallatin	Hebgen Lake	*77
3	T9S, R3E, Sec 12, SE¼NE¼NW¼, NW¼SE¼, S½SE¼	Gallatin	Hebgen Lake	130
	Total			*247
	Total Federal (NFS) lands in facilitated exchanges			*891

*Acres approximate—Survey needed.

NON-FEDERAL LANDS IN FACILITATED EXCHANGES

EIGHTMILE/WEST PINE (WILSON)
(Gallatin NF)

Parcel & map #	Legal description	County	Acres
	T4S, R8E, Sec 7, all	Park	640.00
	Total		640.00

WAPITI (KELSEY)
(Gallatin NF)

Parcel & map #	Legal description	County	Acres
	T9S, R3E, Sec 25, S½	Gallatin	320.00
	Total		320.00
	Total non-Federal lands in facilitated exchanges		*960
	Total BSL and other non-Federal lands		*55,097

*Approximate.

Amend the title so as to read: ''To direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities.''.

The amendment (No. 3681) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The committee amendment, as amended, was agreed to.

The bill (S. 1719), as amended, was passed, as follows:

S. 1719

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Gallatin Land Consolidation Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the land north of Yellowstone National Park possesses outstanding natural characteristics and wildlife habitats that make the land a valuable addition to the National Forest System;

(2) it is in the interest of the United States to establish a logical and effective ownership pattern for the Gallatin National Forest, reducing long-term costs for taxpayers and increasing and improving public access to the forest;

(3) it is in the interest of the United States for the Secretary of Agriculture to enter into an Option Agreement for the acquisition of land owned by Big Sky Lumber Co. to accomplish the purposes of this Act; and

(4) other private property owners are willing to enter into exchanges that further improve the ownership pattern of the Gallatin National Forest.

SEC. 3. DEFINITIONS.

In this Act:

(1) BLM LAND.—The term ''BLM land'' means approximately 2,000 acres of Bureau of Land Management land (including all appurtenances to the land) that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(2) BSL.—The term ''BSL'' means Big Sky Lumber Co., an Oregon joint venture, and its successors and assigns, and any other entities having a property interest in the BSL land.

(3) BSL LAND.—The term ''BSL land'' means approximately 54,000 acres of land (including all appurtenances to the land except as provided in section 4(e)(1)(D)(i)) owned by BSL that is proposed to be acquired by the Secretary of Agriculture, as depicted in Exhibit A to the Option Agreement.

(4) EASTSIDE NATIONAL FORESTS.—The term ''Eastside National Forests'' means national forests east of the Continental Divide in the State of Montana, including the Beaverhead National Forest, Deerlodge National Forest, Helena National Forest, Custer National Forest, and Lewis and Clark National Forest.

(5) NATIONAL FOREST SYSTEM LAND.—The term ''National Forest System land'' means approximately 29,000 acres of land (including all appurtenances to the land) owned by the United States in the Gallatin National Forest, Flathead National Forest, Deerlodge National Forest, Helena National Forest, Lolo National Forest, and Lewis and Clark National Forest that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(6) OPTION AGREEMENT.—The term ''Option Agreement'' means—

(A) the document signed by BSL, dated July 29, 1998 and entitled ''Option Agreement for the Acquisition of Big Sky Lumber Co. Lands Pursuant to the Gallatin Range Consolidation and Protection Act of 1993'';

(B) the exhibits and maps attached to the document described in subparagraph (A); and

(C) an exchange agreement to be entered into between the Secretary and BSL and made part of the document described in subparagraph (A).

(7) SECRETARY.—The ''Secretary'' means the Secretary of Agriculture.

SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the terms and conditions of the Option Agreement—

(1) if BSL offers title acceptable to the Secretary to the BSL land—

(A) the Secretary shall accept a warranty deed to the BSL land and a quit claim deed to agreed to mineral interests in the BSL land;

(B) the Secretary shall convey to BSL, subject to valid existing rights and to other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary

and BSL, fee title to the National Forest System land; and

(C) the Secretary of the Interior shall convey to BSL, by patent or otherwise, subject to valid existing rights and other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary of the Interior and BSL, fee title to the BLM land;

(2) if BSL places title in escrow acceptable to the Secretary to 11½ sections of the BSL land in the Taylor Fork area as set forth in the Option Agreement—

(A) the Secretary shall place Federal land in the Bangtail and Doe Creek areas of the Gallatin National Forest, as identified in the Option Agreement, in escrow pending conveyance to the Secretary of the Taylor Fork land, as identified in the Option Agreement in escrow;

(B) the Secretary, subject to the availability of funds, shall purchase 7½ sections of BSL land in the Taylor Fork area held in escrow and identified in the Option Agreement at a purchase price of $4,150,000; and

(C) the Secretary shall acquire the 4 Taylor Fork sections identified in the Option Agreement remaining in escrow, and any of the 6 sections referred to in subparagraph (B) for which funds are not available, by providing BSL with timber sale receipts from timber sales on the Gallatin National Forest and other eastside national forests in the State of Montana in accordance with subsection (c); and

(3)(A) as funds or timber sale receipts are received by BSL—

(i) the deeds to an equivalent value of BSL Taylor Fork land held in escrow shall be released and conveyed to the Secretary; and

(ii) the escrow of deeds to an equivalent value of Federal land shall be released to the Secretary in accordance with the terms of the Option Agreement; or

(B) if funds or timber sale receipts are not provided to BSL as provided in the Option Agreement, BSL shall be entitled to receive patents and deeds to an equivalent value of the Federal land held in escrow.

(b) VALUATION.—

(1) IN GENERAL.—The property and other assets exchanged or conveyed by BSL and the United States under subsection (a) shall be approximately equal in value, as determined by the Secretary.

(2) DIFFERENCE IN VALUE.—To the extent that the property and other assets exchanged or conveyed by BSL or the United States under subsection (a) are not approximately equal in value, as determined by the Secretary, the values shall be equalized in accordance with methods identified in the Option Agreement.

(c) TIMBER SALE PROGRAM.—

(1) IN GENERAL.—The Secretary shall implement a timber sale program, according to the terms and conditions identified in the Option Agreement and subject to compliance with applicable environmental laws (including regulations), judicial decisions, memoranda of understanding, small business set-aside rules, and acts beyond the control of the Secretary, to generate sufficient timber receipts to purchase the portions of the BSL land in Taylor Fork identified in the Option Agreement.

(2) IMPLEMENTATION.—In implementing the timber sale program—

(A) the Secretary shall provide BSL with a proposed annual schedule of timber sales;

(B) as set forth in the Option Agreement, receipts generated from the timber sale program shall be deposited by the Secretary in a special account established by the Secretary and paid by the Secretary to BSL;

(C) receipts from the Gallatin National Forest shall not be subject to the Act of May 23, 1908 (16 U.S.C. 500); and

(D) the Secretary shall fund the timber sale program at levels determined by the Secretary to be commensurate with the preparation and administration of the identified timber sale program.

(d) RIGHTS-OF-WAY.—As specified in the Option Agreement—

(1) the Secretary, under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), shall convey to BSL such easements in or other rights-of-way over National Forest System land for access to the land acquired by BSL under this Act for all lawful purposes; and

(2) BSL shall convey to the United States such easements in or other rights-of-way over land owned by BSL for all lawful purposes, as may be agreed to by the Secretary and BSL.

(e) QUALITY OF TITLE.—

(1) DETERMINATION.—The Secretary shall review the title for the BSL land described in subsection (a) and, within 45 days after receipt of all applicable title documents from BSL, determine whether—

(A) the applicable title standards for Federal land acquisition have been satisfied and the quality of the title is otherwise acceptable to the Secretary of Agriculture;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the title includes both the surface and subsurface estates without reservation or exception (except as specifically provided in this Act), including—

(i) minerals, mineral rights, and mineral interests (including severed oil and gas surface rights), subject to and excepting other outstanding or reserved oil and gas rights;

(ii) timber, timber rights, and timber interests (except those reserved subject to section 251.14 of title 36, Code of Federal Regulations, by BSL and agreed to by the Secretary);

(iii) water, water rights, ditch, and ditch rights;

(iv) geothermal rights; and

(v) any other interest in the property.

(2) CONVEYANCE OF TITLE.—

(A) IN GENERAL.—If the quality of title does not meet Federal standards or is otherwise determined to be unacceptable to the Secretary of Agriculture, the Secretary shall advise BSL regarding corrective actions necessary to make an affirmative determination under paragraph (1).

(B) TITLE TO SUBSURFACE ESTATE.—Title to the subsurface estate shall be conveyed by BSL to the Secretary in the same form and content as that estate is received by BSL from Burlington Resources Oil & Gas Company Inc. and Glacier Park Company.

(f) TIMING OF IMPLEMENTATION.—

(1) LAND-FOR-LAND EXCHANGE.—The Secretary shall accept the conveyance of land described in subsection (a) not later than 45 days after the Secretary has made an affirmative determination of quality of title.

(2) LAND-FOR-TIMBER SALE RECEIPT EXCHANGE.—As provided in subsection (c) and the Option Agreement, the Secretary shall make timber receipts described in subsection (a)(3) available not later than December 31 of the fifth full calendar year that begins after the date of enactment of this Act.

(3) PURCHASE.—The Secretary shall complete the purchase of BSL land under subsection (a)(3)(B) not later than 30 days after the date on which appropriated funds are made available and an affirmative determination of quality of title is made with respect to the BSL land.

SEC. 5. OTHER FACILITATED EXCHANGES.

(a) AUTHORIZED EXCHANGES.—

(1) IN GENERAL.—The Secretary shall enter into the following land exchanges if the landowners are willing:

(A) Wapiti land exchange, as outlined in the documents entitled ''Non-Federal Lands in Facilitated Exchanges'' and ''Federal Lands in Facilitated Exchanges'' and dated July 1998.

(B) Eightmile/West Pine land exchange as outlined in the documents entitled ''Non-Federal Lands in Facilitated Exchanges'' and ''Federal Lands in Facilitated Exchanges'' and dated July 1998.

(2) EQUAL VALUE.—Before entering into an exchange under paragraph (1), the Secretary shall determine that the parcels of land to be exchanged are of approximately equal value, based on an appraisal.

(b) SECTION 1 OF THE TAYLOR FORK LAND.—

(1) IN GENERAL.—The Secretary is encouraged to pursue a land exchange with the owner of section 1 of the Taylor Fork land after completing a full public process and an appraisal.

(2) REPORT.—The Secretary shall report to Congress on the implementation of paragraph (1) not later than 180 days after the date of enactment of this Act.

SEC. 6. GENERAL PROVISIONS.

(a) MINOR CORRECTIONS.—

(1) IN GENERAL.—The Option Agreement shall be subject to such minor corrections and supplemental provisions as may be agreed to by the Secretary and BSL.

(2) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and each member of the Montana congressional delegation of any changes made under this subsection.

(3) BOUNDARY ADJUSTMENT.—

(A) IN GENERAL.—The boundary of the Gallatin National Forest is adjusted in the Wineglass and North Bridger area, as described on maps dated July 1998, upon completion of the conveyances.

(B) NO LIMITATION.—Nothing in this subsection limits the authority of the Secretary to adjust the boundary pursuant to section 11 of the Act of March 1, 1911 (commonly known as the ''Weeks Act'') (16 U.S.C. 521).

(C) ALLOCATION OF LAND AND WATER CONSERVATION FUND MONEYS.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), boundaries of the Gallatin National Forest shall be considered to be the boundaries of the National Forest as of January 1, 1965.

(b) PUBLIC AVAILABILITY.—The Option Agreement—

(1) shall be on file and available for public inspection in the office of the Supervisor of the Gallatin National Forest; and

(2) shall be filed with the county clerk of each of Gallatin County, Park County, Madison County, Granite County, Broadwater County, Meagher County, Flathead County, and Missoula County, Montana.

(c) COMPLIANCE WITH OPTION AGREEMENT.—The Secretary, the Secretary of the Interior, and BSL shall comply with the terms and conditions of the Option Agreement except to the extent that any provision of the Option Agreement conflicts with this Act.

(d) STATUS OF LAND.—All land conveyed to the United States under this Act shall be added to and administered as part of the Gallatin National Forest and Deerlodge National Forest, as appropriate, in accordance with the Act of March 1, 1911 (5 U.S.C. 515 et seq.), and other laws (including regulations) pertaining to the National Forest System.

(e) MANAGEMENT.—

(1) PUBLIC PROCESS.—Not later than 30 days after the date of completion of the land-for-land exchange under section 4(f)(1), the Secretary shall initiate a public process to

amend the Gallatin National Forest Plan and the Deerlodge National Forest Plan to integrate the acquired land into the plans.

(2) PROCESS TIME.—The amendment process under paragraph (1) shall be completed as soon as practicable, and in no event later than 540 days after the date on which the amendment process is initiated.

(3) LIMITATION.—An amended management plan shall not permit surface occupancy on the acquired land for access to reserved or outstanding oil and gas rights or for exploration or development of oil and gas.

(4) INTERIM MANAGEMENT.—Pending completion of the forest plan amendment process under paragraph (1), the Secretary shall—

(A) manage the acquired land under the standards and guidelines in the applicable land and resource management plans for adjacent land managed by the Forest Service; and

(B) maintain all existing public access to the acquired land.

(f) RESTORATION.—

(1) IN GENERAL.—The Secretary shall implement a restoration program including reforestation and watershed enhancements to bring the acquired land and surrounding national forest land into compliance with Forest Service standards and guidelines.

(2) STATE AND LOCAL CONSERVATION CORPS.—In implementing the restoration program, the Secretary shall, when practicable, use partnerships with State and local conservation corps, including the Montana Conservation Corps, under the Public Lands Corps Act of 1993 (16 U.S.C. 1721 et seq.).

(g) IMPLEMENTATION.—The Secretary of Agriculture shall ensure that sufficient funds are made available to the Gallatin National Forest to carry out this Act.

(i) REVOCATIONS.—Notwithstanding any other provision of law, any public orders withdrawing lands identified in the Option Agreement from all forms of appropriation under the public land laws are revoked upon conveyance of the lands by the Secretary.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The title was amended so as to read: ''To direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities.''.

GALLATIN LAND CONSOLIDATION ACT OF 1998

Mr. BAUCUS. Mr. President, I am delighted that the Senate has taken up and passed S. 1719 and H.R. 3381, the Gallatin Land Consolidation Act of 1998. S. 1719, a bill that I have sponsored and that my good colleague Senator BURNS has cosponsored, is identical to H.R. 3381, a bill sponsored by Montana Congressman RICK HILL that has already passed the House. These bills complete the Gallatin Land Exchange process—an effort that began almost ten years ago.

In 1993, I had the pleasure of sponsoring the Gallatin Land Consolidation and Protection Act that completed phase 1 of this exchange. Like S. 1719, that bill was co-sponsored by Senator BURNS. The House companion in that case was carried by my good friend and colleague, former Representative Pat Williams from Montana.

Together, these bills represent a bipartisan effort where members from both sides of the aisle have worked in a cooperative spirit for the good of Montana. And these bills represent a broad community consensus in Montana about the needs of the Gallatin area for today and for tomorrow.

Mr. President, let me tell you why these bills are good for Montana and good for America. In the early 1990s when we first began this process, the federal government owned every other section of land in the Gallatin Range. As people in the area were fond of saying, you could play checkers from Bozeman, Montana to the Yellowstone border.

And while this pattern might be good for checkers, it was bad for just about every other purpose. The Forest Service could not manage this unwieldy land ownership pattern. Imagine the frustration of trying to manage every other section of land for elk habitat as houses and subdivisions spring up in the middle of your forest. And this pattern kept the public from even being able to access their public lands.

Mr. President, this pattern may have made sense when it was created as part of the railroad land grants over a hundred years ago, but it does not make sense today.

And that is why I am pleased that we have put our backs into this effort and, after ten years, are finally poised to complete this project. The pending legislation is supported by Montanans from all walks of life. Hunters and fishermen support the exchange because it will protect important habitat for elk and moose and will protect important fisheries. Conservationists support the exchange because it protects important grizzly bear habitat in the Taylor Fork. Loggers support the exchange because it will help deliver trees to the local mill in Livingston, Montana. And local homeowners, from the Taylor Fork to Bridger Canyon, all have endorsed this exchange.

This consensus did not just happen. It was the result of a lot of hard work. I met personally with representatives from each of these groups and walked the lands involved in this exchange. I heard the concerns of Mike Liebleson from the Bridger Canyon Property Owners Association and I heard the concerns from George and Patricia Leffingwell. And we addressed their concerns. And we addressed the concerns of Montana small mills represented by the Independent Forest Products Association. And we met the concerns of the Greater Yellowstone Coalition, The Wilderness Society and other local conservation organizations. And last, but certainly not least, we worked closely with the Forest Service and the Administration to try to make sure that this bill reflected their needs.

Throughout this process, the private party to this exchange, Big Sky Lumber Company, has acted in good faith. They have made numerous unilateral concessions to increase the environmental benefits of this exchange and to address public concerns. Their attorney, Joe Sabol, has been instrumental in pulling this package together. Without his efforts and those of Bob Dennee, Lands Specialist for the Gallatin National Forest, and Kurt Alt, Wildlife Biologist for the Montana Department of Fish, Wildlife and Parks, none of this would have been possible.

Mr. President, this has been a community effort. And, as a result, it reflects a community consensus. This is the way that we should resolve issues in the West.

STAR PRINT—REPORT TO ACCOMPANY S. 1719

Mr. HAGEL. Mr. President, I ask unanimous consent that the report to accompany S. 1719 be star printed with the changes that are at the desk.

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

GREAT LAKES FISH AND WILDLIFE RESTORATION ACT OF 1998

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 599, H.R. 1481.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1481) to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

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. GLENN. Mr. President, I would like to thank my colleagues for taking the time today to consider this legislation which is so important to my region.

I introduced The Great Lakes Fish and Wildlife Restoration Act GLFWRA of 1997 as S. 659 in the Senate in April of 1997, in coordination with the introduction of the companion bill, H.R. 1481, in the House by Congressman STEVE LATOURETTE. It's been a long process, but one in which bipartisan and bicameral cooperation at every step of the process served to create a better and stronger bill to serve the needs of the Great Lakes region.

The Great Lakes Fish and Wildlife Restoration Act has eight Senate sponsors, including myself, and twenty-eight of our colleagues on the House are also cosponsors. This bill represents the consensus of a diverse collaboration of tribal, state, federal and international agencies with jurisdiction over the management of fish and wildlife resources of the Great Lakes. The bill also has received favorable review and broad support of organizations throughout the Great Lakes region for the approach it takes toward

restoration of the ecological integrity of the Great Lakes ecosystem.

The primary purpose of the Great Lakes Fish and Wildlife Restoration Act is to implement proposals that address recommendations put forth by the Great Lakes Fishery Resources Restoration Study. To this end, the Act reauthorizes the existing Great Lakes Coordination and Great Lakes Fishery Resources Offices. The bill also sets up a proposal review committee under the guidance of the existing Council of Lake Committees to review grant proposals and identify projects of the highest priority for the restoration of the fish and wildlife resources of the Great Lakes Basin. The Act encourages, supports, and coordinates Federal and non-federal cooperative habitat restoration and natural resource management programs in the Great Lakes Basin.

The Great Lakes Fish and Wildlife Restoration Act represents a new generation of environmental legislation, one that recognizes the complexity and inter-relatedness of ecosystems. This act seeks to address natural resource management in a comprehensive and conscientious manner by building partnerships among the Great Lakes states, U.S. and Canadian governments, and native American Tribes. Through regional cooperation, I believe we can address the environmental and economic concerns of the Great Lakes Basin and continue on the road towards the recovery of this precious natural and national resource. By passing this legislation, we in the Congress will be taking the right next step toward responsible stewardship of the Great Lakes as we venture into the new millennium.

This fall, as I look back on the earth from space, I will be sure to look down on the Great Lakes. I know that they will be a cleaner, safer place for both humans and wildlife to live than they were at the time of my last flight because of the efforts we have made over the past decades. With the passage of this legislation, I will also be sure that they will continue to become even cleaner, safer places where fish and wildlife communities, and the human communities who enjoy them can continue to prosper.

Mr. LEVIN. I would like to ask the distinguished sponsor of the Senate bill if he could comment on whether or not the bill, H.R. 1481, is intended to provide Indian Tribes in the Great Lakes region with any fish and wildlife management authority beyond that contained in existing treaty provisions and as recognized by Federal courts.

Mr. GLENN. The bill's provision appointing tribal representatives to the committee created by the bill is not intended to expand their existing authorities.

Mr. ABRAHAM. Would the Senator from Ohio provide a further clarification that the Senate intends that the committee created in the bill will provide its recommendations under the guidance and direction of the Council of Lake Committees of the Great Lakes Fishery Commission?

Mr. GLENN. The Senator from Michigan is correct. That is the intent.

Mr. LEVIN. I thank the Senator from Ohio for his assistance and, as an original cosponsor of S. 659, I applaud his efforts to move this important legislation expeditiously.●

Mr. HAGEL. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 1481) was considered read the third time, and passed.

COASTAL BARRIER RESOURCES SYSTEM MAP CORRECTION

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 660, S. 2469.

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

The clerk will report.

A bill (S. 2469) to direct the Secretary of the Interior to make technical corrections to a map relating to the Coastal Barrier Resources System.

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 Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2469

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

[SECTION 1. FINDINGS AND PURPOSE.

[(a) FINDINGS.—Congress finds that—**]**

[(1) Coastal Barrier Resources System unit FL–35P was designated under the Coastal Barrier Improvement Act of 1990 (Public Law 101–591) to include Florida State conservation land within the Coastal Barrier Resources System;

[(2) unit FL–35P is an ''otherwise protected area'', a designation that was intended to include land held for conservation purposes;

[(3) the boundary of unit FL–35P runs through a portion of the Ocean Reef Harbor Course South development, which was in existence on the date of enactment of the 1990 Act;

[(4) at the time unit FL–35P was designated, 9 residences were located in the portion of the development that was included within the boundaries of the unit;

[(5) the 11.7 acres comprising that portion are not held for conservation purposes, and are not an inholding within conservation land;

[(6) the United States Fish and Wildlife Service has received certificates of occupancy and corresponding plat maps from Monroe County, Florida, verifying that a portion of unit FL–35P was developed, and accordingly that the portion referred to in paragraph (5) was mistakenly included in the Coastal Barrier Resources System; and

[(7) modification of the boundary of unit FL–35P to exclude the 11.7-acre parcel referred to in paragraph (5) would constitute a valid technical correction.

[(b) PURPOSE.—The purpose of this Act is to make a technical correction to unit FL–35P of the Coastal Barrier Resources System to exclude from the unit the 11.7-acre parcel of developed property that was mistakenly included in the unit.

[SEC. 2. CORRECTIONS TO MAP.]

SECTION 1. CORRECTIONS TO MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in sub**[**section (b) as are necessary to ensure that depictions of areas on the map are consistent with the depictions of areas appearing on the map entitled ''Amendments to the Coastal Barrier Resources System'', dated August 31, 1998, and on file with the Secretary.**]** *section (b) as are necessary to exclude—*

(1) the lots that, as of the date of enactment of this Act, are located on Harbor Island Drive and Baker Road; and

(2) the adjacent body of water;

within the Ocean Reef Harbor Course South development.

(b) MAP DESCRIBED.—The map described in this subsection is the map that—

(1) is included in a set of maps entitled ''Coastal Barrier Resources System'', dated October 24, 1990; and

(2) relates to unit FL–35P of the Coastal Barrier Resources System.

Mr. HAGEL. Mr. President, I ask unanimous consent that the committee amendments be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriated place in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 2469), as amended, was considered read the third time, and passed, as follows:

S. 2469

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

SECTION 1. CORRECTIONS TO MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in subsection (b) as are necessary to exclude—

(1) the lots that, as of the date of enactment of this Act, are located on Harbor Island Drive and Baker Road; and

(2) the adjacent body of water;

within the Ocean Reef Harbor Course South development.

(b) MAP DESCRIBED.—The map described in this subsection is the map that—

(1) is included in a set of maps entitled ''Coastal Barrier Resources System'', dated October 24, 1990; and

(2) relates to unit FL–35P of the Coastal Barrier Resources System.

COASTAL BARRIER RESOURCES SYSTEM MAP CORRECTION

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 661, S. 2470.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2470) to direct the Secretary of the Interior to make technical corrections to a map relating to the Coastal Barrier Resources System.

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 Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. CORRECTION OF MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in subsection (b) as are necessary to exclude Pumpkin Key from the Coastal Barrier Resources System.

(b) MAP DESCRIBED.—The map described in this subsection is the map that—

(1) is included in a set of maps entitled ''Coastal Barrier Resources System'', dated October 24, 1990; and

(2) relates to unit FL–35 of the Coastal Barrier Resources System.

Mr. HAGEL. Mr. President, I ask unanimous consent that the Committee substitute be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 2470), as amended, as considered read the third time, and passed.

COASTAL BARRIER RESOURCES SYSTEM MAP CORRECTION-UNIT SC–03, SOUTH CAROLINA

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 662, S. 2474.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2474) to direct the Secretary of the Interior to make corrections to certain maps relating to the Coastal Barrier Resources System.

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 Environment and Public Works, with an amendment, as follows:

(The part of the bill intended to be stricken is shown in boldface brackets and the part of the bill intended to be inserted is shown in italic.)

S. 2474

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

SECTION 1. CORRECTIONS TO COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) UNIT SC–03.–

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in paragraph (2) as are necessary to ensure that depictions of areas on the map are consistent with the depictions of areas appearing on the map entitled ''Amendments to the Coastal Barrier Resources System'', dated May 15, 1997, and on file with the **[**Committee on Resources of the House of Representatives**]** *Secretary of the Interior.*

(2) MAP.—The map described in this paragraph is the map that—

(A) is included in the set of maps entitled ''Coastal Barrier Resources System'' and dated October 24, 1990; and

(B) relates to unit SC–03 of the Coastal Barrier Resources System.

Mr. HAGEL. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

the committee amendment was agreed to.

The bill (S. 2474), as amended, was considered read the third time, and passed, as follows:

S. 2474

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

SECTION 1. CORRECTIONS TO COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) UNIT SC–03.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in paragraph (2) as are necessary to ensure that depictions of areas on that map are consistent with the depictions of areas appearing on the map entitled ''Amendments to the Coastal Barrier Resources System'', dated May 15, 1997, and on file with the Secretary of the Interior.

(2) MAP.—The map described in this paragraph is the map that—

(A) is included in the set of maps entitled ''Coastal Barrier Resources System'' and dated October 24, 1990; and

(B) relates to unit SC–03 of the Coastal Barrier Resources System.

COASTAL BARRIER RESOURCES SYSTEM MAP CORRECTIONS

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 659, S. 2351.

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

The clerk will report.

A bill (S. 2351) to direct the Secretary of the Interior to make corrections to a map relating to the Coastal Barrier Resources System.

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 Environment and Public Works, with an amendment, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2351

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

SECTION 1. CORRECTIONS TO MAP.

[(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in subsection (b) as are necessary to move on that map the northeastern boundary of the otherwise protected area (as defined in section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591)) to the Cape Henlopen State Park boundary to the extent necessary to exclude from the otherwise protected area the adjacent property owned, as of the date of enactment of this Act, by the Barcroft Company and Cape Shores Associates (which are privately held corporations under the law of the State of Delaware).**]**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in subsection (b) as are necessary to move on that map the boundary of the otherwise protected area (as defined in section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591)) to the Cape Henlopen State Park boundary to the extent necessary—

(1) to exclude from the otherwise protected area the adjacent property leased, as of the date of enactment of this Act, by the Barcroft Company and Cape Shores Associates (which are privately held corporations under the law of the State of Delaware); and

(2) to include in the otherwise protected area the northwestern corner of Cape Henlopen State Park seaward of the Lewes and Rehoboth Canal.

(b) MAP DESCRIBED.—The map described in this subsection is the map that is included in a set of maps entitled ''Coastal Barrier Resources System'', dated October 24, 1990, as revised October 15, 1992, and that relates to the unit of the Coastal Barrier Resources System entitled ''Cape Henlopen Unit DE–03P''.

Mr. HAGEL. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 2351), as amended, was considered read the third time, and passed, as follows:

S. 2351

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

SECTION 1. CORRECTIONS TO MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in subsection (b) as are necessary to move on that map the boundary of the otherwise protected area (as defined in section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591)) to the Cape Henlopen State Park boundary to the extent necessary—

(1) to exclude from the otherwise protected area the adjacent property leased, as of the date of enactment of this Act, by the Barcroft Company and Cape Shores Associates (which are privately held corporations under the law of the State of Delaware); and

(2) to include in the otherwise protected area the northwestern corner of Cape Henlopen State Park seaward of the Lewes and Rehoboth Canal.

(b) MAP DESCRIBED.—The map described in this subsection is the map that is included in a set of maps entitled ''Coastal Barrier Resources System'', dated October 24, 1990, as revised October 15, 1992, and that relates to the unit of the Coastal Barrier Resources System entitled ''Cape Henlopen Unit DE–03P''.

ORDERS FOR MONDAY, OCTOBER 5, 1998

Mr. HAGEL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m on Monday, October 5. I further ask that the time for the two leaders be reserved.

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

Mr. HAGEL. I further ask unanimous consent that there then be a period for the transaction of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each, with the following exceptions: Senator MACK, 15 minutes; Senator ASHCROFT in control of 1 hour between 11 a.m. and 12 noon; Senator BAUCUS in control of the time between 1 and 2 p.m.

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

PROGRAM

Mr. HAGEL. Mr. President, for the information of all Senators, on Monday the Senate will convene at 11 a.m. and begin a period of morning business until 2 p.m. Following morning business, it will be the leader's intention to begin consideration of the Agriculture appropriations conference report under a short time agreement. The Senate may also resume consideration of S. 442, the Internet tax bill.

At 5:30 p.m., under a previous order, the Senate will proceed to a vote on the motion to invoke cloture on the motion to proceed to H.R. 10, the financial services modernization bill. Further votes could occur following the cloture vote in relation to the motion to proceed, and if consent is granted, votes on or in relation to the agriculture conference report, the Internet tax bill, or any other legislative or executive items cleared for action.

Members are reminded that a cloture petition was filed today on the Internet tax bill. That vote will occur on Tuesday. Therefore, Members have until 1 p.m. on Monday to file first-degree amendments.

ORDER FOR RECESS

Mr. HAGEL. Mr. President, if there is no further business to come before the Senate, I ask that the Senate now stand in recess under the previous order, following the remarks of Senators AKAKA and SESSIONS.

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

Mr. HAGEL. I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii, Mr. AKAKA.

HELP OUR STUDENTS LEARN

Mr. AKAKA. Mr. President, yesterday I stood with the President and several of my Democratic colleagues to call on the Republican leadership to focus their attention on the children of America. Millions of American children in schools across the United States are being denied the basic education foundation they need to succeed.

In Hawaii, thousands of children waited with anticipation for the new school year. Parents took their children to buy school supplies, new clothes, and other back-to-school preparations. However, many of these students entered or returned to schools that are so inadequate that they cannot receive a quality education. Our children are being asked to learn in environments that are not conducive to learning, and may even be dangerous. But still, these young, bright-eyed, captivated children go day-after-day to schools seeking to learn the wonders of the world.

Mr. President, Congress has the moral responsibility to ensure that we provide our children access to quality education. President Clinton recently called on Congress to enact several education initiatives that will improve education facilities, ensure that the education curriculum challenges and engages our students, and provide teachers and administrators the resources they need to teach and support our children.

These proposals work together to strengthen our nation's schools. First, we need to build and modernize our nation's schools. We continue to demand that our workforce compete in the demanding high technology marketplace, yet we educate children in schools that do not have access to the information superhighway, let alone the physical capabilities to support the demand for access. Many of Hawaii's schools were built over 50 years ago, before schools required a computer in every classroom. For example, I recently received a e-mail from a concerned parent whose child attends Hickam Elementary School. The parents had decided to hold a teachers' breakfast for the faculty at the school. They turned on the air conditioning in the office and the library and blew the fuses—the electrical wiring was unable to handle the demand for the increased energy required by the air conditioners. If the wiring cannot support air conditioners, how can it support the computers and the air conditioners needed to cool the rooms which house the computers? Although Hawaii is facing economic problems, we are not facing these problems alone. Every day 14 million students attend schools that need extensive repair and replacement, like Hickam Elementary School. Almost 60 percent of America's schools reported at least one major building feature in disrepair.

As we continue to rely on technological advances to improve education for our children, schools need to be capable of supporting these increasing demands. Hickam is not the only school in Hawaii experiencing this hardship; many schools in Hawaii face this problem. Administrators must choose whether to cool the library so that children can read and learn, or turn on the computers in their labs. This should not be. We need to assist schools in making the investments to improve existing facilities or allow them to build new facilities to meet the growing technological demands. We must commit ourselves to ensuring that our children are able to learn in a comfortable and safe environment. That is why I support efforts to rebuild, modernize, and reduce overcrowding in more than 5,000 public schools through Federal support that would pay the interest on nearly $22 billion in bonds to help improve the schools across the country, including Hawaii.

But a new school loaded with technology gizmos is not enough. Ensuring access to such advancements does not guarantee success. We must also invest in our teachers. We chide teachers for being unqualified, but we fail to provide them the support needed to succeed. We lament the teacher shortage, but fail to provide the resources to recruit quality individuals. And, we have a growing problem with teacher retention, yet we fail to give teachers the respect they deserve and acknowledge that teaching is a very complex and difficult profession.

As my colleagues know, before I came to Congress, I was a teacher. I taught elementary, intermediate, and high school students in Hawaii. I know, firsthand, the difficulties teachers face each day in their classroom. Fortunately, I taught during a time when teachers were respected and appreciated. Today, however, we take teachers for granted. We expect them to be teachers, counselors, and sometimes, even part-time parents. We fail to recognize the importance these individuals have in shaping the nature of our nation's future leaders. I am not sure when this terrible decline began, but I know that it must stop. We must raise our respect for teachers and realize that they are not the source of our education problems, nor are they the only

ones that can improve our current situation.

We have a responsibility to provide the resources needed to allow our nation's teachers to succeed. We need to increase funding for teacher development programs such as technology teacher training, which helps teachers learn to use technology effectively to improve classroom instruction and enhance student learning. We need to help communities hire 100,000 new qualified teachers to allow schools to reduce there class sizes. We need to reduce the number of out-of-field teachers, particularly for new teachers who are more often assigned to teach subjects outside of their field of training and often do not have the support and mentoring to assist in their development. The First Lady said, ''it takes a village to raise a child.'' I believe that, but I also believe that it takes a village to teach a child. Teachers, parents, administrators, and communities as a whole must be committed to ensuring that our children are provided the assistance they need to obtain a quality education.

Children are wonderful, forthright, and open individuals, particularly when they are young. It is always a treat for me to meet with young students, they often have a very truthful and direct way of putting things into perspective. Just three weeks ago, I participated in a satellite conference with third grade students from Queen Liliuokalani Elementary School and high school students from Radford and Kaimuki High Schools. The high school students are participants in E-school, a virtual school which provides on-line and satellite distance learning opportunities to students and teachers. Hawaii's Department of Education is a national leader in the virtual school concept. Leveraging federal funding through the Technology Literacy Fund and the Technology Challenge Grants, Hawaii students are able to learn and receive over 21 high school credit courses for on-line classes. Yet, even with these wonderful achievements in Hawaii, more needs to be done. The students who participated shared with me their concerns over the lack of more capable computers, the need for greater security for the system, and the desire for more teachers who are able to use the system. Students want to learn, it is our responsibility to ensure that they have the resources available to help them achieve their goals.

We know that children learn better in small classes, particularly in the early childhood years, study after study has proven that class size makes a difference in the achievements of our children. President Clinton has requested $12 billion over 7 years to reduce the class size in grades 1 to 3. As a former teacher, I strongly believe that the proposal would significantly advance the educational achievements of our students. The average class size in the United States for grades 1 to 3 is 23. In Hawaii, the average class size for kindergarten through third grade is 21.9. How can we expect our children to be able to learn when one teacher is required to teach 21 five- to eight-year-olds. I challenge my colleagues to spend a day, just one day, at a elementary school in their State to experience firsthand the challenges in getting 21 five through eight-year-olds to pay attention to you.

Our responsibility should not stop with the school bell. As many as 5 million children are home alone after school each week. Hawaii was fortunate to have the first state-wide after-school care program. This innovative program began in 1990 under the leadership of Governor Benjamin Cayetano while he was the Lieutenant Governor. Hawaii's A-Plus program provides after-school activities to eligible students in grades K through 6. The program provides supervised enrichment and physical development activities at 171 public schools. It is available to eligible children and fees are based on a sliding scale from $6 to $55 per month.

However, many of our children in other states are not as fortunate. Only one-third of the schools in low-income neighborhood and half the schools in affluent areas offer after-school programs. Full funding for the 21st Century Community Learning Centers program would provide 400,000 children in the United States access to safe learning centers, similar to those provided in Hawaii.

First-rate facilities, quality teachers, students ready and willing to learn are important ingredients needed to ensure success for our children, but that success also needs to be based on high academic standards. We must set significant academic standards for our students to ensure that they will be able to compete in the growing global economy. We should increase funding for Goals 2000 to assist states in raising and setting academic standards that challenge and motivate students. We need to expand funding for Title I to provide the means for disadvantaged communities to develop and maintain high academic standards.

Mr. President, our schools are in disrepair, our classrooms are overcrowded, our teachers are overburdened, our children need our help now. We have a responsibility and a moral obligation to provide modern, safe facilities, reduce class sizes, provide the support for children outside of the classrooms, and support and help recruit and retain well-qualified teachers. I urge my Senate colleagues to make a concerted effort to address this vital national problem. The implications of ignoring or delaying our obligation may have ramifications that may not be so easily corrected.

Our nation's children are depending upon us to make the sacrifice and do what needs to be done. We must stand up and meet this challenge, if we do not, we will have failed our nation's children—our nation's future.

THE INTERNATIONAL RELIGIOUS FREEDOM ACT

Mr. AKAKA. Mr. President, I wish to associate myself with the remarks delivered earlier this afternoon by my friend, the senior Senator from Oklahoma (Mr. NICKLES) regarding the International Religious Freedom Act. I commend him and Senator LIEBERMAN for their leadership in advancing this legislation. I congratulate their willingness to work with the Administration and all interested parties to craft legislation that is inclusive, that preserves many options for the President, yet is strong and effective in addressing religious persecution around the world. The revisions suggested and accepted in the spirit of compromise have not weakened the core purpose or value of this legislation.

This is one of the most important pieces of foreign relations legislation this Congress will consider during this session. It proposes action against religious persecution worldwide, and establishes a structure by which the United States can more effectively investigate, monitor, and address serious violations of religious freedom, an internationally recognized human right, as well as an issue of concern to all people of faith.

The International Religious Freedom Act is a necessary step to ensure that religious persecution will not be tolerated in our conduct of foreign policy. S. 1868 seeks to promote religious freedom by establishing an Ambassador-at-Large for Religious Liberty, a Special Advisor within the White House on Religious Persecution, and a bipartisan Commission on International Religious Liberty. It also provides the President with an array of options, including economic sanctions, which he can use to respond to countries that engage in or condone religious persecution. The measure in no way constricts or mandates the conduct of American foreign policy.

This is not a Republican bill or a Democratic bill, a conservative or liberal proposal, or an effort to protect or promote any one faith. It is supported by the Episcopal Church, the Christian Coalition, the Anti-Defamation League (ADL), Catholic organizations, and other religious and human rights associations across the country. Indeed, it is an ecumenical effort supported by a bipartisan group in Congress, and it enjoys wide support among all people of faith and supporters of human rights. This is why I was honored to join Senator NICKLES, LIEBERMAN, SPECTER, and COATS, Congressmen WOLF and CLEMENT, and a diverse coalition of religious leaders this morning to urge Congressional action on the International Religious Freedom Act before adjournment.

As a longtime supporter of human rights, the defense of the right to religious freedom is as significant as IMF funding and our ongoing efforts to deal with the international financial crisis. Sadly, many of the conflicts we are

witnessing today have religious intolerance at their core. It is my strong belief that if we in the United States, our allies in other nations and people of faith around the world speak out about religious liberty and call attention to religious persecution, and bring positive forces to bear in defense of religious freedom, we can advance understanding and respect for this basic human right and prevent religious intolerance from festering and exploding into conflict and violence.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Illinois.

THE QUESTION OF IMPEACHMENT

Mr. SESSIONS. Mr. President, I had the opportunity a few moments ago to hear the distinguished Senator from Delaware talk about his views and his analysis and his historical perspective from his extensive research on the question of impeachment. I found it instructive, full of much good insight and food for thought, and I agreed with the vast majority of it.

We ought to be respectful and responsive as we go through this process. It may be that it will never even get to this body. I certainly don't hear many Senators making speeches about it. We don't have any hearings going on in this body concerning impeachment. It is solely a decision to be made by the House first, and only then would we begin to focus on it. And I think that is the way it should be.

So far as I can tell, our attention in this body, the U.S. Senate, has in fact been on appropriations bills and other legislation that is important for the American people, and I am glad that is what has been happening.

I agree that the founders were concerned about the abuse of the impeachment process, and well they should be. They were wise people. They knew there were dangers and they discussed whether or not to have impeachment. But the important thing is they did adopt an impeachment process and they set it forth in the Constitution with good clarity, and it requires a majority vote in the House to impeach and a two-thirds vote of the sitting Members of the U.S. Senate, with the Chief Justice of the Supreme Court presiding, I assume in the President's chair. He would preside and manage the action on the floor. It would be a controlled environment with the case being presented by managers from the House following the historical rules of procedure. I believe impeachment proceedings would be handled in a dignified and proper manner. Certainly, that process is part of our Constitution and it is something we ought not to treat lightly.

Now, as to the question of politics, I, and I think every Member of this body, would be careful and very diligent to ensure that any decision they made concerning such a momentous subject as impeachment would be made on the law, on the facts, and on what is fair and just.

I do not believe politics will control this process, but, of course, to get the 67 votes, the necessary two-thirds, a substantial number of Democrats would have to vote for conviction before such an event could occur. So I think the framers thought it out carefully, and they have done a very good job in planning it out.

I hope that we do not talk politics in such a way that we create a political situation. I know the House is dealing with procedure: Some want to do it this way; some want to do it that way and some want to do it another way. Often these are legitimate debates. Who knows precisely how some of these procedural steps should be accomplished? Now, if every time you lose a vote you say it is politics and accuse the other side of politics, the charge of playing politics can be thrown back on the person making the accusation.

I think both groups—the people who are supporting the President and want to see him succeed, and those who are politically opposed to him—both need to be careful to ensure that what they do is fair and is perceived as creating a positive environment, as was done by Senator Howard Baker during Watergate. He didn't always agree with everyone, but he conducted himself in a way that brought respect to the system.

I think both parties, the Republican and the Democratic Parties, and Members of the House and Senate need to be careful about how we conduct ourselves and avoid politics and try to decide these matters on what is right and fair and just.

I don't know what others might say, but I was a Federal prosecutor. I had the opportunity over the years to be before grand juries hundreds of times. Perhaps, I have presented a thousand cases to a grand jury. I have seen people testify and tell the truth at great pain to themselves.

I would agree with Senator BIDEN that it just may be that as a matter of law, we are not in this body compelled to any conclusion because the President may have committed perjury. At the same time, I want us to not denigrate, not to too lightly respect the obligation of every citizen, when they are called in a civil case or a criminal case and placed under oath, to tell the truth, because when we do not have truth-telling in the judicial system, then the whole legal system is corrupted and can be undermined. That is so fundamental.

I have seen witnesses sweat drops of blood, but they told the truth. A businessman lately told me: ''I had to give a deposition and it never occurred to me I was not required to tell the truth.''

A few years ago, I had occasion to prosecute a young police officer who was, basically, I think the driver for the chief of police, a controversial chief of police, in my hometown. I liked him. He was an aggressive young African-American officer and made some good community-based changes. There were people with different views about things, and the young officer made some statements that were not true, and a lawsuit was filed. He testified in that lawsuit and later admitted what he said was not true.

It caused a big controversy in town, and in the newspapers. The people were upset, they didn't know whether the chief deserved to be kept in office or not. Finally, we found out it wasn't true. I was U.S. attorney then. We returned an indictment against that young officer for perjury in a civil case because he abused the legal system. He corrupted the legal system and caused great public damage and turmoil in the community.

I don't know what the standards are here. I don't expect to be prejudging what ought to occur in this body. But I want to say, as someone who has spent 15 years, really 17 years as a prosecutor, as someone who has been in court all my life professionally, and having seen these kinds of cases, I am telling you, we don't ever want to get in a situation in this country where we treat lightly the act of testifying falsely in a court of law. I mean that very sincerely and from my heart.

The President of the United States takes an oath to faithfully execute the duties of the Office of President, and one of those duties is to faithfully ''take care that the laws of the United States be faithfully executed''.

I think the Senator from Delaware has given us much insight and much food for thought. He said these are stark and momentous decisions, and they are. But at the same time, he said something else that was just right. He quoted his father saying, ''This country is so big, so strong, so solid; we can handle an awful lot.'' I really believe that.

The process is set out in the Constitution and, as the Senator from Delaware said, this is not a constitutional crisis. Some way, we will get through it. If we follow what the Constitution says, if we let the House do its duty, and if they vote impeachment, it will come over here; if they don't vote impeachment, it won't come over here. It is set out clearly in the Constitution. I don't think there will be any doubt about the procedure to follow. I am much comforted, as I have studied the Constitution in that regard, that there won't be much confusion or doubt about how this process ought to be handled.

I thank the Senator from Delaware for his comments. They are insightful and important. All of us need to begin to think about this. I don't think we are required to be mute and not say anything about what is obviously taking place around us, never expressing an opinion about anything relating to this matter. This is not that kind of process. I think we ought to be careful

and respectful and, above all, fair and just as we do this process.

TRITIUM PRODUCTION PROVISION IN THE STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. SESSIONS. Mr. President, on another subject, and the primary purpose of my being here this afternoon is to talk about the issue of tritium. It was a much debated issue in the Armed Services Committee bill.

I thank the chairman of the Senate Armed Services Committee, Senator STROM THURMOND, for his outstanding leadership, his commitment to this country and his dedication to America. He, at age 40, volunteered to fight—he was a judge—he forced his way into World War II, went off to Europe and volunteered on D-Day not just to land, he volunteered to get in one of the glider planes that they pulled up and let go and flew over the enemy lines and landed who knows where, in Belgium or somewhere near, to form commando groups to assist in the invasion effort.

Senator THURMOND recounted, when they asked him how rough the landing was, ''Well, I'll just say you didn't have to open the door, you could just walk out the side of the plane.'' It is kind of hard to land one of those things in hedgerows and who knows what else when they are coming down. He served his country.

I asked him, ''What happened after the surrender of Germany? Were you there all the way to the surrender, STROM?''

He said, ''Yes,'' he was there until the day of the surrender, and then he was put on a train and sent to the Pacific, but Japan surrendered before he reached the battlefront in the Pacific.

He is a true patriot and has done an outstanding job on this entire defense bill—the Strom Thurmond National Defense Authorization Act. I do appreciate his willingness to work with us as we endeavored to reach a compromise on the question of tritium.

There was a colloquy on the floor of this body yesterday between Senator WARNER, Senator KYL and Senator ROBERT SMITH. Due to Hurricane Georges ravaging my hometown of Mobile, AL, I was not able to be here. But I appreciate Senator WARNER's expressed concern for the people of our State during that colloquy. I would like to make a few comments, since I was not able to be here at that time.

First and foremost, tritium is an essential element for maintaining the safety, security and reliability of a national nuclear weapons stockpile. Without it, as Senator JON KYL alluded to yesterday, we place our ability to meet our stockpile needs under the START I treaty, by 2005, in a precarious situation.

Therefore, regardless of how passionate we may become in debating the merits of the options on this issue, let there be no doubt that the core of this discussion lies in the U.S. national interests. And we cannot compromise that issue. We cannot compromise the national security interests of the United States.

For the last several years, the Department of Energy has been pursuing a dual-track strategy in considering two technologies for tritium production: One is a commercial light water reactor and the other a proton accelerator. I firmly believe it was premature for the House of Representatives to engage in a political effort that would have eliminated one of those options; that is, the commercial light water reactor option.

I personally believe that the commercial light water reactor option would be the most cost-effective and is the most proven way to produce tritium. So, we will have that debate coming up next year. We will go into some detail about it.

But beyond my own personal belief in the commercial light water reactor option, I continue to be committed to the support of the role that the experts at the Department of Energy and the Department of Defense must have to select the best option. We have had a process that has been going on for 2 years to have them analyze the options and make a selection. I believe they are better suited to deal with these technological questions than are Members of the House and the Senate.

So I worked hard, along with Senator SHELBY and Congressman ROBERT ADERHOLT and BOB RILEY and BUD CRAMER, and other Senate and House colleagues with the Senate Armed Services Committee and the House National Security Committee on this issue.

We did what we could to raise the issue. We let everyone who would listen know we were making a mistake to allow the politics of the moment rule the day. The amendment to eliminate the commerical light water reactor option was never debated in the House, but was attached to a large defense bill, and boom, passed. There was no discussion or debate on a measure that interrupted and abrogated the almost 2 years of study on tritium production by the Department of Energy.

There has been a lot of discussion about it. We concluded, according to recent CBO studies—that the accelerator option would cost between $4 billion and $13 billion more than the commercial light water reactor. That is a lot of money. We do not have $4, $5, $6, $7 billion or more to waste on that process.

So we have not had the final decision. The Department of Energy is analyzing it. They need to be allowed to complete their analysis. And that is what I believe was achieved in this bill. The process was allowed to continue. It was delayed somewhat, but I do not think it was delayed too long. But the Department of Energy will make its decision. And next year I suppose we will make our decision in this body, and then in the other body, as to how tritium should be produced and in what process.

So I am pleased that we have reached this accord. Senator LOTT stated yesterday that ''we cannot afford to delay this program.'' I cannot agree more. And I hope this message is understood as we go forward to reaching a final solution on the production of tritium, an essential component for our nuclear arsenal.

In June, I entered a number of letters in the CONGRESSIONAL RECORD on this issue. We had letters from the Secretary of Defense, Secretary Cohen, and from the then Secretary of Energy, Secretary Peña, and the White House—all expressing grave concern about a political decision on a scientific, technical and defense issue. And Senator CARL LEVIN, my good friend from Michigan, was very strong in resisting this effort that had begun in the House of Representatives. So we now find ourselves on the right path again.

Secretary Richardson needs to move forward deliberately and aggressively in selecting the proper option. The Department's implementation plan must be submitted early next year and should be carefully considered by this body, thoroughly debated and swiftly acted upon.

The majority leader, TRENT LOTT, and others have indicated they will be thoroughly engaged in the debate when it comes. This is the next and logical step in the tritium story. Its outcome will provide a roadmap to a future guarantee for our Nation's security. I plan to be engaged in that important debate. I encourage my colleagues to do so as well.

I thank the Chair.

NATIONAL SALVAGE MOTOR VEHICLE CONSUMER PROTECTION ACT OF 1998

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 495, S. 852.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 852) to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Salvage Motor Vehicle Consumer Protection Act of 1997''.

SEC. 2. MOTOR VEHICLE TITLING AND DISCLOSURE REQUIREMENTS.

(a) AMENDMENT TO TITLE 49, UNITED STATES CODE.—Subtitle VI of title 49, United States

Code, is amended by inserting a new chapter at the end:

"CHAPTER 333—AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS

''Sec.
''33301. Definitions.
''33302. Passenger motor vehicle titling.
''33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles.
''33304. Report on funding.
''33305. Effect on State law.
''33306. Civil and criminal penalties.
''33307. Actions by States.

"§ 33301. Definitions

''(a) DEFINITIONS.—For the purposes of this chapter:

''(1) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' shall have the same meaning given such term by section 32101(10), except, notwithstanding section 32101(9), it shall include a multipurpose passenger vehicle (constructed on a truck chassis or with special features for occasional off-road operation), or a truck, other than a truck referred to in section 32101(10)(B), when that vehicle or truck is rated by the manufacturer of such vehicle or truck at not more than 10,000 pounds gross vehicle weight, and except further, it shall only include a vehicle manufactured primarily for use on public streets, roads, and highways.

''(2) SALVAGE VEHICLE.—The term 'salvage vehicle' means any passenger motor vehicle, other than a flood vehicle or a nonrepairable vehicle, which—

''(A) is a late model vehicle which has been wrecked, destroyed, or damaged, to the extent that the total cost of repairs to rebuild or reconstruct the passenger motor vehicle to its condition immediately before it was wrecked, destroyed, or damaged, and for legal operation on the roads or highways, exceeds 80 percent of the retail value of the passenger motor vehicle;

''(B) is a late model vehicle which has been wrecked, destroyed, or damaged, and to which an insurance company acquires ownership pursuant to a damage settlement (except in the case of a settlement in connection with a recovered stolen vehicle, unless such vehicle sustained damage sufficient to meet the damage threshold prescribed by subparagraph (A)); or

''(C) the owner wishes to voluntarily designate as a salvage vehicle by obtaining a salvage title, without regard to the level of damage, age, or value of such vehicle or any other factor, except that such designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligation or liability.

''(3) SALVAGE TITLE.—The term 'salvage title' means a passenger motor vehicle ownership document issued by the State to the owner of a salvage vehicle. A salvage title shall be conspicuously labeled with the word 'salvage' across the front.

''(4) REBUILT SALVAGE VEHICLE.—The term 'rebuilt salvage vehicle' means—

''(A) any passenger motor vehicle which was previously issued a salvage title, has passed State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, has passed the State safety inspection in those States requiring a safety inspection pursuant to section 33302(b)(8), has been issued a certificate indicating that the passenger motor vehicle has passed the required safety inspection in those States requiring such a safety inspection pursuant to section 33302(b)(8), and has a decal stating 'Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' affixed to the driver's door jamb; or

''(B) any passenger motor vehicle which was previously issued a salvage title, has passed a State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, and has, affixed to the driver's door jamb, a decal stating 'Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria' in those States not requiring a safety inspection pursuant to section 33302(b)(8).

''(5) REBUILT SALVAGE TITLE.—The term 'rebuilt salvage title' means the passenger motor vehicle ownership document issued by the State to the owner of a rebuilt salvage vehicle. A rebuilt salvage title shall be conspicuously labeled either with the words 'Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' or 'Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria,' as appropriate, across the front.

''(6) NONREPAIRABLE VEHICLE.—The term 'nonrepairable vehicle' means any passenger motor vehicle, other than a flood vehicle, which is incapable of safe operation for use on roads or highways and which has no resale value except as a source of parts or scrap only or which the owner irreversibly designates as a source of parts or scrap. Such passenger motor vehicle shall be issued a nonrepairable vehicle certificate and shall never again be titled or registered.

''(7) NONREPAIRABLE VEHICLE CERTIFICATE.—The term 'nonrepairable vehicle certificate' means a passenger motor vehicle ownership document issued by the State to the owner of a nonrepairable vehicle. A nonrepairable vehicle certificate shall be conspicuously labeled with the word 'Nonrepairable' across the front.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(9) LATE MODEL VEHICLE.—The term 'Late Model Vehicle' means any passenger motor vehicle which—

''(A) has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked, destroyed, or damaged, or any of the six preceding years; or

''(B) has a retail value of more than $7,500.

The Secretary shall adjust such retail value on an annual basis in accordance with changes in the consumer price index.

''(10) RETAIL VALUE.—The term 'retail value' means the actual cash value, fair market value, or retail value of a passenger motor vehicle as—

''(A) set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values; or

''(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment.

''(11) COST OF REPAIRS.—The term 'cost of repairs' means the estimated retail cost of parts needed to repair the vehicle or, if the vehicle has been repaired, the actual retail cost of the parts used in the repair, and the cost of labor computed by using the hourly labor rate and time allocations that are reasonable and customary in the automobile repair industry in the community where the repairs are to be performed.

''(12) FLOOD VEHICLE.—The term 'flood vehicle' means any passenger motor vehicle that—

''(A) has been acquired by an insurance company as part of a damage settlement due to water damage; or

''(B) has been submerged in water to the point that rising water has reached over the door sill, has entered the passenger or trunk compartment, and has exposed any electrical, computerized, or mechanical component to water, except—

''(i) where a passenger motor vehicle which, pursuant to an inspection conducted by an insurance adjuster or estimator, a motor vehicle repairer or motor vehicle dealer in accordance with inspection guidelines or procedures established by the Secretary or the State, is determined to have no electrical, computerized or mechanical components which were damaged by water; or,

''(ii) where a passenger motor vehicle which, pursuant to an inspection conducted by an insurance adjuster or estimator, a motor vehicle repairer or motor vehicle dealer in accordance with inspection guidelines or procedures established by the Secretary or the State, is determined to have one or more electrical, computerized or mechanical components which were damaged by water and where all such damaged components have been repaired or replaced.

Disclosure that a vehicle is a flood vehicle must be made at the time of transfer of ownership and the brand 'Flood' shall be conspicuously marked on all subsequent titles for the vehicle. No inspection shall be required unless the owner or insurer of the passenger motor vehicle is seeking to avoid a brand of 'Flood' pursuant to subparagraph (B). Disclosing a passenger motor vehicle's status as a flood vehicle or conducting an inspection pursuant to subparagraph (B) shall not impose on any person any liability for damage to (except in the case of damage caused by the inspector at the time of the inspection) or reduced value of a passenger motor vehicle.

''(b) CONSTRUCTION.—The definitions set forth in subsection (a) shall only apply to vehicles in a State which are wrecked, destroyed, or otherwise damaged on or after the date on which such State complies with the requirements of this chapter and the rule promulgated pursuant to section 33302(b).

"§ 33302. Passenger motor vehicle titling

''(a) CARRY-FORWARD OF INFORMATION ON A NEWLY ISSUED TITLE WHERE THE PREVIOUS TITLE FOR THE VEHICLE WAS NOT ISSUED PURSUANT TO NEW NATIONALLY UNIFORM STANDARDS.—For any passenger motor vehicle, the ownership of which is transferred on or after the date that is 1 year from the date of the enactment of this chapter, each State receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of this chapter, in licensing such vehicle for use, shall disclose in writing on the certificate of title whenever records readily accessible to the State indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', 'nonrepairable', 'reconstructed', 'rebuilt', or any other symbol or word of like kind, or that it has been damaged by flood.

''(b) NATIONALLY UNIFORM TITLE STANDARDS AND CONTROL METHODS.—Not later than 18 months after the date of the enactment of this chapter, the Secretary shall by rule require each State receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of this chapter, in licensing any passenger motor vehicle where ownership of such passenger motor vehicle is transferred more than 2 years after publication of such final rule, to apply uniform standards, procedures, and methods for the issuance and control of titles for motor vehicles and for information to be contained on such titles. Such titling standards, control procedures, methods, and information shall include the following requirements:

''(1) A State shall conspicuously indicate on the face of the title or certificate for a passenger motor vehicle, as applicable, if the passenger motor vehicle is a salvage vehicle, a nonrepairable vehicle, a rebuilt salvage vehicle, or a flood vehicle.

''(2) Such information concerning a passenger motor vehicle's status shall be conveyed on any subsequent title, including a duplicate or replacement title, for the passenger motor vehicle issued by the original titling State or any other State.

''(3) The title documents, the certificates, and decals required by section 33301(4), and the issuing system shall meet security standards minimizing the opportunities for fraud.

''(4) The certificate of title shall include the passenger motor vehicle make, model, body type,

year, odometer disclosure, and vehicle identification number.

''(5) The title documents shall maintain a uniform layout, to be established in consultation with the States or an organization representing them.

''(6) A passenger motor vehicle designated as nonrepairable shall be issued a nonrepairable vehicle certificate and shall not be retitled.

''(7) No rebuilt salvage title shall be issued to a salvage vehicle unless, after the salvage vehicle is repaired or rebuilt, it complies with the requirements for a rebuilt salvage vehicle pursuant to section 33301(4). Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. Any such anti-theft inspection program shall include the following:

''(A) A requirement that the owner of any passenger motor vehicle submitting such vehicle for an anti-theft inspection provide a completed document identifying the vehicle's damage prior to being repaired, a list of replacement parts used to repair the vehicle, and proof of ownership of such replacement parts, as may be evidenced by bills of sale, invoices, or, if such documents are not available, other proof of ownership for the replacement parts. The owner shall also include an affirmation that the information in the declaration is complete and accurate and that, to the knowledge of the declarant, no stolen parts were used during the rebuilding.

''(B) A requirement to inspect the passenger motor vehicle or any major part or any major replacement part required to be marked under section 33102 for signs of such mark or vehicle identification number being illegally altered, defaced, or falsified. Any such passenger motor vehicle or any such part having a mark or vehicle identification number that has been illegally altered, defaced, or falsified, and that cannot be identified as having been legally obtained (through bills of sale, invoices, or other ownership documentation), shall be contraband and subject to seizure. The Secretary, in consultation with the Attorney General, shall, as part of the rule required by this section, establish procedures for dealing with those parts whose mark or vehicle identification number is normally removed during industry accepted remanufacturing or rebuilding practices, which parts shall be deemed identified for purposes of this section if they bear a conspicuous mark of a type, and applied in such a manner, as designated by the Secretary, indicating that they have been rebuilt or remanufactured. With respect to any vehicle part, the Secretary's rule, as required by this section, shall acknowledge that a mark or vehicle identification number on such part may be legally removed or altered as provided for in section 511 of title 18, United States Code, and shall direct inspectors to adopt such procedures as may be necessary to prevent the seizure of a part from which the mark or vehicle identification number has been legally removed or altered.

''(8) Any safety inspection for a rebuilt salvage vehicle performed pursuant to this chapter shall be performed in accordance with nationally uniform safety inspection criteria established by the Secretary. A State may determine whether to conduct such safety inspection itself, contract with one or more third parties, or permit self-inspection by a person licensed by such State in an automotive-related business, all subject to criteria promulgated by the Secretary hereunder. Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. A State requiring such safety inspection may require the payment of a fee for the privilege of such inspection or the processing thereof.

''(9) No duplicate or replacement title shall be issued unless the word 'duplicate' is clearly marked on the face thereof and unless the procedures for such issuance are substantially consistent with Recommendation three of the Motor Vehicle Titling, Registration and Salvage Advisory Committee.

''(10) A State shall employ the following titling and control methods:

''(A) If an insurance company is not involved in a damage settlement involving a salvage vehicle or a nonrepairable vehicle, the passenger motor vehicle owner shall apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable, before the passenger motor vehicle is repaired or the ownership of the passenger motor vehicle is transferred, but in any event within 30 days after the passenger motor vehicle is damaged.

''(B) If an insurance company, pursuant to a damage settlement, acquires ownership of a passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company or salvage facility or other agent on its behalf shall apply for a salvage title or nonrepairable vehicle certificate within 30 days after the title is properly assigned by the owner to the insurance company and delivered to the insurance company or salvage facility or other agent on its behalf with all liens released.

''(C) If an insurance company does not assume ownership of an insured's or claimant's passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company shall notify the owner of the owner's obligation to apply for a salvage title or nonrepairable vehicle certificate for the passenger motor vehicle and notify the State passenger motor vehicle titling office that a salvage title or nonrepairable vehicle certificate should be issued for the vehicle, except to the extent such notification is prohibited by State insurance law.

''(D) If a leased passenger motor vehicle incurs damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the lessor shall apply for a salvage title or nonrepairable vehicle certificate within 21 days after being notified by the lessee that the vehicle has been so damaged, except when an insurance company, pursuant to a damage settlement, acquires ownership of the vehicle. The lessee of such vehicle shall inform the lessor that the leased vehicle has been so damaged within 30 days after the occurrence of the damage.

''(E) Any person acquiring ownership of a damaged passenger motor vehicle that meets the definition of a salvage or nonrepairable vehicle for which a salvage title or nonrepairable vehicle certificate has not been issued, shall apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable. This application shall be made before the vehicle is further transferred, but in any event, within 30 days after ownership is acquired. The requirements of this subparagraph shall not apply to any scrap metal processor which acquires a passenger motor vehicle for the sole purpose of processing it into prepared grades of scrap and which so processes such vehicle.

''(F) State records shall note when a nonrepairable vehicle certificate is issued. No State shall issue a nonrepairable vehicle certificate after 2 transfers of ownership.

''(G) When a passenger motor vehicle has been flattened, baled, or shredded, whichever comes first, the title or nonrepairable vehicle certificate for the vehicle shall be surrendered to the State within 30 days. If the second transferee on a nonrepairable vehicle certificate is unequipped to flatten, bale, or shred the vehicle, such transferee shall, at the time of final disposal of the vehicle, use the services of a professional automotive recycler or professional scrap processor who is hereby authorized to flatten, bale, or shred the vehicle and to effect the surrender of the nonrepairable vehicle certificate to the State on behalf of such second transferee. State records shall be updated to indicate the destruction of such vehicle and no further ownership transactions for the vehicle will be permitted. If different than the State of origin of the title or nonrepairable vehicle certificate, the State of surrender shall notify the State of origin of the surrender of the title or nonrepairable vehicle certificate and of the destruction of such vehicle.

''(H) When a salvage title is issued, the State records shall so note. No State shall permit the retitling for registration purposes or issuance of a rebuilt salvage title for a passenger motor vehicle with a salvage title without a certificate of inspection, which complies with the security and guideline standards established by the Secretary pursuant to paragraphs (3), (7), and (8), as applicable, indicating that the vehicle has passed the inspections required by the State. This subparagraph does not preclude the issuance of a new salvage title for a salvage vehicle after a transfer of ownership.

''(I) After a passenger motor vehicle titled with a salvage title has passed the inspections required by the State, the inspection official will affix the secure decal required pursuant to section 33301(4) to the driver's door jamb of the vehicle and issue to the owner of the vehicle a certificate indicating that the passenger motor vehicle has passed the inspections required by the State. The decal shall comply with the permanency requirements established by the Secretary.

''(J) The owner of a passenger motor vehicle titled with a salvage title may obtain a rebuilt salvage title or vehicle registration, or both, by presenting to the State the salvage title, properly assigned, if applicable, along with the certificate that the vehicle has passed the inspections required by the State. With such proper documentation and upon request, a rebuilt salvage title or registration, or both, shall be issued to the owner. When a rebuilt salvage title is issued, the State records shall so note.

''(11) A seller of a passenger motor vehicle that becomes a flood vehicle shall, at or prior to the time of transfer of ownership, give the buyer a written notice that the vehicle has been damaged by flood, provided such person has actual knowledge that such vehicle has been damaged by flood. At the time of the next title application for the vehicle, disclosure of the flood status shall be provided to the applicable State with the properly assigned title and the word 'Flood' shall be conspicuously labeled across the front of the new title.

''(12) In the case of a leased passenger motor vehicle, the lessee, within 15 days of the occurrence of the event that caused the vehicle to become a flood vehicle, shall give the lessor written disclosure that the vehicle is a flood vehicle.

''(13) Ownership of a passenger motor vehicle may be transferred on a salvage title, however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt salvage title.

''(14) Ownership of a passenger motor vehicle may be transferred on a rebuilt salvage title, and a passenger motor vehicle for which a rebuilt salvage title has been issued may be registered for use on the roads and highways.

''(15) Ownership of a passenger motor vehicle may only be transferred 2 times on a nonrepairable vehicle certificate. A passenger motor vehicle for which a nonrepairable vehicle certificate has been issued can never be titled or registered for use on roads or highways.

''(c) CONSUMER NOTICE IN NONCOMPLIANT STATES.—Any State receiving, either directly or indirectly, funds appropriated under section 30503(c) of this title after the date of enactment of this chapter and not complying with the requirements of subsections (a) and (b) of this section, shall conspicuously print the following notice on all titles or ownership certificates issued for passenger motor vehicles in such State until such time as such State is in compliance with the requirements of subsections (a) and (b) of this section: 'NOTICE: This State does not conform to the uniform Federal requirements of the National Salvage Motor Vehicle Consumer Protection Act of 1997.'.

"§ 33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles

''(a) WRITTEN DISCLOSURE REQUIREMENTS.—

''(1) GENERAL RULE.—Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a rebuilt salvage vehicle shall give the transferee a written disclosure that the vehicle is a rebuilt salvage vehicle when such person has actual knowledge of the status of such vehicle.

''(2) FALSE STATEMENT.—A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

''(3) COMPLETENESS.—A person acquiring a rebuilt salvage vehicle for resale may accept a disclosure under paragraph (1) only if it is complete.

''(4) REGULATIONS.—The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under paragraph (1).

''(b) LABEL REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall by regulation require that a label be affixed to the windshield or window of a rebuilt salvage vehicle before its first sale at retail containing such information regarding that vehicle as the Secretary may require. The label shall be affixed by the individual who conducts the applicable State antitheft inspection in a participating State.

''(2) REMOVAL, ALTERATION, OR ILLEGIBILITY OF REQUIRED LABEL.—No person shall willfully remove, alter, or render illegible any label required by paragraph (1) affixed to a rebuilt salvage vehicle before the vehicle is delivered to the actual custody and possession of the first retail purchaser.

''(c) LIMITATION.—The requirements of subsections (a) and (b) shall only apply to a transfer of ownership of a rebuilt salvage vehicle where such transfer occurs in a State which, at the time of the transfer, is complying with subsections (a) and (b) of section 33302.

"§ 33304. Report on funding

''The Secretary shall, contemporaneously with the issuance of a final rule pursuant to section 33302(b), report to appropriate committees of Congress whether the costs to the States of compliance with such rule can be met by user fees for issuance of titles, issuance of registrations, issuance of duplicate titles, inspection of rebuilt vehicles, or for the State services, or by earmarking any moneys collected through law enforcement action to enforce requirements established by such rule.

"§ 33305. Effect on State law

''(a) IN GENERAL.—Unless a State is in compliance with subsection (c) of section 33302, effective on the date the rule promulgated pursuant to section 33302 becomes effective, the provisions of this chapter shall preempt all State laws in States receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of this chapter, to the extent they are inconsistent with the provisions of this chapter or the rule promulgated pursuant to section 33302, which—

''(1) set forth the form of the passenger motor vehicle title;

''(2) define, in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any term defined in section 33301 or the terms 'salvage', 'nonrepairable', or 'flood', or apply any of those terms to any passenger motor vehicle (but not to a passenger motor vehicle part or part assembly separate from a passenger motor vehicle); or

''(3) set forth titling, recordkeeping, anti-theft inspection, or control procedures in connection with any salvage vehicle, rebuilt salvage vehicle, nonrepairable vehicle, or flood vehicle.

The requirements described in paragraph (3) shall not be construed to affect any State consumer law actions that may be available to residents of the State for violations of this chapter.

''(b) CONSTRUCTION.—Additional disclosures of a passenger motor vehicle's title status or history, in addition to the terms defined in section 33301, shall not be deemed inconsistent with the provisions of this chapter. Such disclosures shall include disclosures made on a certificate of title. When used in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any definition of a term defined in section 33301 which is different than the definition in that section or any use of any term listed in subsection (a), but not defined in section 33301, shall be deemed inconsistent with the provisions of this chapter. Nothing in this chapter shall preclude a State from disclosing on a rebuilt salvage title that a rebuilt salvage vehicle has passed a State safety inspection which differed from the nationally uniform criteria to be promulgated pursuant to section 33302(b)(8).

"§ 33306. Civil and criminal penalties

''(a) PROHIBITED ACTS.—It shall be unlawful for any person knowingly and willfully to—

''(1) make or cause to be made any false statement on an application for a title (or duplicate title) for a passenger motor vehicle or any disclosure made pursuant to section 33303;

''(2) fail to apply for a salvage title when such an application is required;

''(3) alter, forge, or counterfeit a certificate of title (or an assignment thereof), a nonrepairable vehicle certificate, a certificate verifying an anti-theft inspection or an anti-theft and safety inspection, a decal affixed to a passenger motor vehicle pursuant to section 33302(b)(10)(I), or any disclosure made pursuant to section 33303;

''(4) falsify the results of, or provide false information in the course of, an inspection conducted pursuant to section 33302(b)(7) or (8);

''(5) offer to sell any salvage vehicle or nonrepairable vehicle as a rebuilt salvage vehicle;

''(6) fail to make any disclosure required by section 33303, except when the person lacks actual knowledge of the status of the rebuilt salvage vehicle;

''(7) violate a regulation prescribed under this chapter; or

''(8) conspire to commit any of the acts enumerated in paragraph (1), (2), (3), (4), (5), (6), or (7).

''(b) CIVIL PENALTY.—Any person who commits an unlawful act as provided in subsection (a) of this section shall be fined a civil penalty of up to $2,000 per offense. A separate violation occurs for each passenger motor vehicle involved in the violation.

''(c) CRIMINAL PENALTY.—Any person who commits an unlawful act as provided in subsection (a) of this section shall be fined up to $50,000 or sentenced to up to 3 years imprisonment or both, per offense.

"§ 33307. Actions by States

''(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has violated or is violating section 33302 or 33303, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States or the appropriate State court to enjoin such violation or to enforce the civil penalties under section 33306 or enforce the criminal penalties under section 33306.

''(b) NOTICE.—The State shall serve prior written notice of any civil or criminal action under subsection (a) or (e)(2) upon the Attorney General and provide the Attorney General with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil or criminal action, the Attorney General shall have the right—

''(1) to intervene in such action;

''(2) upon so intervening, to be heard on all matters arising therein; and

''(3) to file petitions for appeal.

''(c) CONSTRUCTION.—For purposes of bringing any civil or criminal action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(d) VENUE; SERVICE OF PROCESS.—Any civil or criminal action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

''(e) ACTIONS BY STATE OFFICIALS.—

''(1) Nothing contained in this section shall prohibit an attorney general of a State or other authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

''(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.''.

(b) CONFORMING AMENDMENT.—The table of chapters for part C at the beginning of subtitle VI of title 49, United States Code, is amended by inserting at the end the following new item:

''333. Automobile safety and title disclosure requirements ..... 33301''.

SEC. 3. AMENDMENTS TO CHAPTER 305.

(a) DEFINITIONS.—

(1) Amend section 30501(4) of title 49, United States Code, to read as follows:

''(4) 'nonrepairable vehicle', 'salvage vehicle', and 'rebuilt salvage vehicle' have the same meanings given those terms in section 33301 of this title.''.

(2) Amend section 30501(5) of title 49, United States Code, by striking ''junk automobiles'' and inserting ''nonrepairable vehicles''.

(3) Amend section 30501(8) by striking ''salvage automobiles'' and inserting ''salvage vehicles''.

(4) Strike paragraph (7) of section 30501 of title 49, United States Code, and renumber the succeeding sections accordingly.

(b) NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.—

(1) Amend section 30502(d)(3) of title 49, United States Code, to read as follows:

''(3) whether an automobile known to be titled in a particular State is or has been a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle;''.

(2) Amend section 30502(d)(5) of title 49, United States Code, to read as follows:

''(5) whether an automobile bearing a known vehicle identification number has been reported as a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle under section 30504 of this title.''.

(c) STATE PARTICIPATION.—Amend section 30503 of title 49, United States Code, to read as follows:

"§ 30503. State participation

''(a) STATE INFORMATION.—Each State receiving funds appropriated under subsection (c) shall make titling information maintained by that State available for use in operating the National Motor Vehicle Title Information System established or designated under section 30502 of this title.

''(b) VERIFICATION CHECKS.—Each State receiving funds appropriated under subsection (c) shall establish a practice of performing an instant title verification check before issuing a

certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

''(1) communicating to the operator—

''(A) the vehicle identification number of the automobile for which the certificate of title is sought;

''(B) the name of the State that issued the most recent certificate of title for the automobile; and

''(C) the name of the individual or entity to whom the certificate of title was issued; and

''(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

''(c) GRANTS TO STATES.—

''(1) In cooperation with the States and not later than January 1, 1994, the Attorney General shall—

''(A) conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

''(B) determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

''(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.

''(d) REPORT TO CONGRESS.—Not later than October 1, 1998, the Attorney General shall report to Congress on which States have met the requirements of this section. If a State has not met the requirements, the Attorney General shall describe the impediments that have resulted in the State's failure to meet the requirements.''.

(d) REPORTING REQUIREMENTS.—Section 30504 of title 49, United States Code, is amended by striking ''junk automobiles or salvage automobiles'' every place it appears and inserting ''nonrepairable vehicles, rebuilt salvage vehicles, or salvage vehicles''.

AMENDMENT NO. 3683

(Purpose: To establish a uniform system for titling and registering vehicles that are salvaged, irreparably damaged, or rebuilt)

Mr. SESSIONS. Mr. President, Senator GORTON has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for Mr. GORTON, proposes an amendment numbered 3683.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 3684 TO AMENDMENT NO. 3683

(Purpose: To modify certain terms to clarify that certain Federal laws requiring labeling and titling of salvage vehicles do not preempt more stringent State laws)

Mr. SESSIONS. Mr. President, Senators LEVIN and FEINSTEIN have an amendment to the amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] for Mr. LEVIN, for himself, Mrs. FEINSTEIN and Mr. BRYAN, proposes an amendment numbered 3684 to amendment No. 3683.

Mr. SESSIONS. 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 2, before line 1, strike the item relating to section 33303 and insert the following:

''33303. Disclosure and label requirements on transfer of rebuilt Federal salvage vehicles.

On page 2, lines 17 and 18, strike ''SALVAGE VEHICLE.—The term 'salvage vehicle'' and insert ''FEDERAL SALVAGE VEHICLE.—The term 'Federal salvage vehicle''.

On page 4, line 10, strike ''SALVAGE TITLE.—The term 'salvage title'' and insert ''FEDERAL SALVAGE TITLE.—The term 'Federal salvage title''.

On page 4, lines 15 and 16, strike ''REBUILT SALVAGE VEHICLE.—The term 'rebuilt salvage vehicle'' and insert ''FEDERAL REBUILT SALVAGE VEHICLE.—The term 'Federal rebuilt salvage vehicle''.

On page 5, line 4, strike ''Rebuilt'' and insert ''Federal Rebuilt''.

On page 5, line 14, strike ''Rebuilt'' and insert ''Federal Rebuilt''.

On page 5, beginning on line 19, strike ''REBUILT SALVAGE TITLE.—The term 'rebuilt salvage title'' and insert ''FEDERAL REBUILT SALVAGE TITLE.—The term 'Federal rebuilt salvage title''.

On page 5, line 22, strike ''rebuilt salvage'' and insert ''Federal rebuilt salvage''.

On page 5, line 22, strike ''a rebuilt salvage'' and insert ''a Federal rebuilt salvage''.

On page 5, lines 24 and 25, strike ''Rebuilt Salvage'' each place that term appears and insert ''Federal Rebuilt Salvage''.

On page 6, lines 4 and 5, strike ''NONREPAIRABLE VEHICLE.—The term 'nonrepairable vehicle'' and insert ''FEDERAL NONREPAIRABLE VEHICLE.—The term 'Federal nonrepairable vehicle''.

On page 6, line 11, strike ''nonrepairable'' and insert ''Federal nonrepairable''.

On page 6, lines 14 and 15, strike ''NONREPAIRABLE VEHICLE CERTIFICATE.—The term 'nonrepairable vehicle certificate'' and insert ''FEDERAL NONREPAIRABLE VEHICLE CERTIFICATE.—The term 'Federal nonrepairable vehicle certificate''.

On page 6, lines 17 through 18, strike ''nonrepairable'' and insert ''Federal nonrepairable.

On page 6, line 18, strike ''nonrepairable'' and insert ''Federal nonrepairable''.

On page 6, line 19, strike ''word'' and insert ''words''.

On page 6, lines 19 and 20, strike ''Nonrepairable'' and insert ''Federal nonrepairable''.

On page 8, line 3, strike ''FLOOD VEHICLE.—'' and insert ''FEDERAL FLOOD VEHICLE.—''.

On page 9, line 8, strike ''FLOOD'' and insert ''FEDERAL FLOOD''.

On page 9, line 11, strike ''Flood'' and insert ''Federal Flood''.

On page 22, strike lines 20 and 21 and insert the following:

''§ 33303. Disclosure and label requirements on transfer of Federal rebuilt salvage vehicles''

On page 21, line 2, strike ''word'' and insert ''words''.

On page 21, line 2, strike ''Flood'' and insert ''Federal Flood''.

Strike ''salvage'' and insert ''Federal salvage'' on the following pages and in or beginning on the following lines:

(1) Page 3, line 15.
(2) Page 4, lines 12, 13, 14, and 18.
(3) Page 5, line 9.
(4) Page 11, line 14.
(5) Page 15, lines 17, 18, and 20.
(6) Page 16, lines 7, 11, 16, 19, and 22.
(7) Page 17, lines 5, 6, 18, 19, and 21.
(8) Page 19, lines 8, 11, 12, 19, and 22.
(9) Page 20, line 10.
(10) Page 21, lines 10 and 11.
(11) Page 25, lines 15 and 22.
(12) Page 27, line 15.
(13) Page 28, line 4.
(14) Page 31, lines 11 and 19.
(15) Page 32, line 12.
(16) Page 34, line 17.

Strike ''flood'' and insert ''Federal flood'' on the following pages and in or beginning on the following lines:

(1) Page 6, line 6.
(2) Page 9, line 14.
(3) Page 11, line 15.
(4) Page 21, line 8.
(5) Page 25, lines 16 and 23.

Strike ''rebuilt salvage'' and insert ''Federal rebuilt salvage'' on the following pages and in or beginning on the following lines:

(1) Page 5, line 22 (each place it appears).
(2) Page 11, lines 14 and 15.
(3) Page 12, line 14.
(4) Page 14, line 18.
(5) Page 20, lines 8 through 9, 16, and 14.
(6) Page 21, lines 16 and 17.
(7) Page 22, line 25.
(8) Page 23, lines 3, 11, and 20.
(9) Page 24, lines 4 and 9.
(10) Page 25, line 22.
(11) Page 27, line 4.
(12) Page 28, line 5.
(13) Page 31, line 12.
(14) Page 32, lines 5 and 11.
(15) Page 34, line 16.

Strike ''nonrepairable'' and insert ''Federal nonrepairable'' on the following pages and in or beginning on the following lines:

(1) Page 11, line 14.
(2) Page 12, line 9.
(3) Page 15, lines 18 and 20.
(4) Page 16, lines 5, 8, 17, 20, and 23.
(5) Page 17, lines 5, 6 through 7, 18, 19, and 21.
(6) Page 18, lines 8, 12, 15, and 22.
(7) Page 19, lines 3 and 6.
(8) Page 21, lines 21 and 23.
(9) Page 25, lines 15 through 16.
(10) Page 25, lines 22 through 23.
(11) Page 27, line 18.
(12) Page 28, lines 4 and 5.
(13) Page 31, lines 11 and 15 through 16.
(14) Page 32, lines 4 and 11.
(15) Page 34, line 16.

On page 10, line 20, strike ''title.'' and insert ''title, or that the vehicle was a 'Federal salvage vehicle', 'Federal rebuilt salvage vehicle', 'Federal flood vehicle', or 'Federal nonrepairable vehicle'.''.

On page 11, line 15, strike ''vehicle.'' and insert ''vehicle, or if records readily available to the State indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol referred to in subsection (a).''.

On page 27, between lines 7 and 8, insert the following:

''(d) STATUTORY CONSTRUCTION.—Except as specifically provided in this chapter, nothing in this chapter is intended to affect any State law—

''(1) relating to the inspection or titling of, disclosure, or other action concerning salvage, rebuilt salvage, flood, or nonrepairable motor vehicles; or

''(2) that provides for more stringent protection of a purchaser of a used motor vehicle.

On page 32, strike lines 1 through 12 and insert the following:

(1) Section 30502(d)(3) of title 49, United States Code, is amended to read as follows:

''(3) whether an automobile known to be titled in a particular State—

''(A) is or has been a Federal nonrepairable vehicle, a Federal rebuilt salvage vehicle, or a Federal salvage vehicle; or

''(B) was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', or any other symbol or word of like kind, or that the vehicle has been damaged by flood.''.

(2) Section 30502(d)(5) of title 49, United States Code, is amended to read as follows:

''(5) whether—

''(A) an automobile bearing a known vehicle identification number has been reported as a Federal nonrepairable vehicle, a Federal rebuilt salvage vehicle, or a Federal salvage vehicle under section 30504 of this title; or

''(B) the vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', or any other symbol or word of like kind, or that the vehicle has been damaged by flood.''.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the amendments be agreed to.

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

The amendment (No. 3684 and No. 3683, as amended) was agreed to.

Mr. SESSIONS. I ask unanimous consent that the substitute amendment, as amended, be agreed to.

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

The substitute amendment, as amended, was agreed to.

Mr. SESSIONS. I ask unanimous consent that 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 at the appropriate place in the RECORD.

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

The bill (S. 852), as amended, was considered read the third time and passed, as follows:

S. 852

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 ''National Salvage Motor Vehicle Consumer Protection Act of 1998''.

SEC. 2. MOTOR VEHICLE TITLING AND DISCLOSURE REQUIREMENTS.

(a) AMENDMENT TO TITLE 49, UNITED STATES CODE.—Subtitle VI of title 49, United States Code, is amended by inserting a new chapter at the end:

''CHAPTER 333—AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS

''Sec.
''33301. Definitions.
''33302. Passenger motor vehicle titling.
''33303. Disclosure and label requirements on transfer of rebuilt Federal salvage vehicles.
''33304. Report on funding.
''33305. Effect on State law.
''33306. Civil penalties.
''33307. Actions by States.

''§ 33301. Definitions

''(a) DEFINITIONS.—For the purposes of this chapter:

''(1) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' has the same meaning given such term by section 32101(10), except, notwithstanding section 32101(9), it includes a multipurpose passenger vehicle (constructed on a truck chassis or with special features for occasional off-road operation), a truck, other than a truck referred to in section 32101(10)(B), and a pickup truck when that vehicle or truck is rated by the manufacturer of such vehicle or truck at not more than 10,000 pounds gross vehicle weight, and it only includes a vehicle manufactured primarily for use on public streets, roads, and highways.

''(2) FEDERAL SALVAGE VEHICLE.—The term 'Federal salvage vehicle' means any passenger motor vehicle, other than a flood vehicle or a nonrepairable vehicle, which—

''(A) is a late model vehicle which has been wrecked, destroyed, or damaged, to the extent that the total cost of repairs to rebuild or reconstruct the passenger motor vehicle to its condition immediately before it was wrecked, destroyed, or damaged, and for legal operation on the roads or highways, exceeds 75 percent of the retail value of the passenger motor vehicle;

''(B) is a late model vehicle which has been wrecked, destroyed, or damaged, and to which an insurance company acquires ownership pursuant to a damage settlement (except in the case of a settlement in connection with a recovered stolen vehicle, unless such vehicle sustained damage sufficient to meet the damage threshold prescribed by subparagraph (A)); or

''(C) the owner wishes to voluntarily designate as a Federal salvage vehicle by obtaining a salvage title, without regard to the level of damage, age, or value of such vehicle or any other factor, except that such designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligation or liability.

Notwithstanding any other provision of this chapter, a State may use the term 'older model salvage vehicle' to designate a wrecked, destroyed, or damaged vehicle that does not meet the definition of a late model vehicle in paragraph (9). If a State, as of the date of enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, has established a salvage definition at a lesser percentage than provided under subparagraph (A), then that definition shall not be considered to be inconsistent with the provisions of this chapter.

''(3) FEDERAL SALVAGE TITLE.—The term 'Federal salvage title' means a passenger motor vehicle ownership document issued by the State to the owner of a Federal salvage vehicle. A Federal salvage title shall be conspicuously labeled with the words 'Federal salvage' across the front.

''(4) FEDERAL REBUILT SALVAGE VEHICLE.—The term 'Federal rebuilt salvage vehicle' means—

''(A) any passenger motor vehicle which was previously issued a Federal salvage title, has passed State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, has passed the State safety inspection in those States requiring a safety inspection pursuant to section 33302(b)(8), has been issued a certificate indicating that the passenger motor vehicle has passed the required safety inspection in those States requiring such a safety inspection pursuant to section 33302(b)(8), and has a decal stating 'Federal Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' affixed to the driver's door jamb; or

''(B) any passenger motor vehicle which was previously issued a Federal salvage title, has passed a State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, and has, affixed to the driver's door jamb, a decal stating 'Federal Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria' in those States not requiring a safety inspection pursuant to section 33302(b)(8).

''(5) FEDERAL REBUILT SALVAGE TITLE.—The term 'Federal rebuilt salvage title' means the passenger motor vehicle ownership document issued by the State to the owner of a Federal rebuilt salvage vehicle. A Federal rebuilt salvage title shall be conspicuously labeled either with the words 'Federal Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' or 'Federal Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria', as appropriate, across the front.

''(6) FEDERAL NONREPAIRABLE VEHICLE.—The term 'Federal nonrepairable vehicle' means any passenger motor vehicle, other than a Federal flood vehicle, which is incapable of safe operation for use on roads or highways and which has no resale value except as a source of parts or scrap only or which the owner irreversibly designates as a source of parts or scrap. Such passenger motor vehicle shall be issued a Federal nonrepairable vehicle certificate and shall never again be titled or registered.

''(7) FEDERAL NONREPAIRABLE VEHICLE CERTIFICATE.—The term 'Federal nonrepairable vehicle certificate' means a passenger motor vehicle ownership document issued by the State to the owner of a Federal nonrepairable vehicle. A Federal nonrepairable vehicle certificate shall be conspicuously labeled with the words 'Federal nonrepairable' across the front.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(9) LATE MODEL VEHICLE.—The term 'Late Model Vehicle' means any passenger motor vehicle which—

''(A) has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked, destroyed, or damaged, or any of the six preceding years; or

''(B) has a retail value of more than $7,500.

The Secretary shall adjust such retail value on an annual basis in accordance with changes in the consumer price index.

''(10) RETAIL VALUE.—The term 'retail value' means the actual cash value, fair market value, or retail value of a passenger motor vehicle as—

''(A) set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values; or

''(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment.

''(11) COST OF REPAIRS.—The term 'cost of repairs' means the estimated retail cost of parts needed to repair the vehicle or, if the vehicle has been repaired, the actual retail cost of the parts used in the repair, and the cost of labor computed by using the hourly labor rate and time allocations that are reasonable and customary in the automobile repair industry in the community where the repairs are to be performed.

''(12) FEDERAL FLOOD VEHICLE.—

''(A) IN GENERAL.—The term 'flood vehicle' means any passenger motor vehicle that—

''(i) has been acquired by an insurance company as part of a damage settlement due to water damage; or

''(ii) has been submerged in water to the point that rising water has reached over the door sill, has entered the passenger or trunk compartment, and has exposed any electrical, computerized, or mechanical component to water, except where a passenger

motor vehicle which, pursuant to an inspection conducted by an insurance adjuster or estimator, a motor vehicle repairer or motor vehicle dealer in accordance with inspection guidelines or procedures established by the Secretary or the State, is determined—

''(I) to have no electrical, computerized or mechanical components which were damaged by water; or

''(II) to have one or more electrical, computerized or mechanical components which were damaged by water and where all such damaged components have been repaired or replaced.

''(B) INSPECTION NOT REQUIRED FOR ALL FEDERAL FLOOD VEHICLES.—No inspection under subparagraph (A) shall be required unless the owner or insurer of the passenger motor vehicle is seeking to avoid a brand of 'Federal Flood' pursuant to this chapter.

''(C) EFFECT OF DISCLOSURE.—Disclosing a passenger motor vehicle's status as a Federal flood vehicle or conducting an inspection pursuant to subparagraph (A) shall not impose on any person any liability for damage to (except in the case of damage caused by the inspector at the time of the inspection) or reduced value of a passenger motor vehicle.

''(b) CONSTRUCTION.—The definitions set forth in subsection (a) only apply to vehicles in a State which are wrecked, destroyed, or otherwise damaged on or after the date on which such State complies with the requirements of this chapter and the rule promulgated pursuant to section 33302(b).

''§ 33302. Passenger motor vehicle titling

''(a) CARRY-FORWARD OF STATE INFORMATION.—For any passenger motor vehicle, the ownership of which is transferred on or after the date that is 1 year after the date of the enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, each State receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of that Act, in licensing such vehicle for use, shall disclose in writing on the certificate of title whenever records readily accessible to the State indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'older model salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', 'nonrepairable', 'reconstructed', 'rebuilt', or any other symbol or word of like kind, or that it has been damaged by flood, and the name of the State that issued that title, or that the vehicle was a 'Federal salvage vehicle', 'Federal rebuilt salvage vehicle', 'Federal flood vehicle', or 'Federal nonrepairable vehicle'.

''(b) NATIONALLY UNIFORM TITLE STANDARDS AND CONTROL METHODS.—Not later than 18 months after the date of the enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, the Secretary shall by rule require each State receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of that Act, in licensing any passenger motor vehicle where ownership of such passenger motor vehicle is transferred more than 2 years after publication of such final rule, to apply uniform standards, procedures, and methods for the issuance and control of titles for motor vehicles and for information to be contained on such titles. Such titling standards, control procedures, methods, and information shall include the following requirements:

''(1) A State shall conspicuously indicate on the face of the title or certificate for a passenger motor vehicle, as applicable, if the passenger motor vehicle is a Federal salvage vehicle, a Federal nonrepairable vehicle, a Federal rebuilt salvage vehicle, or a Federal flood vehicle, or if records readily available to the State indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol referred to in subsection (a).

''(2) Such information concerning a passenger motor vehicle's status shall be conveyed on any subsequent title, including a duplicate or replacement title, for the passenger motor vehicle issued by the original titling State or any other State.

''(3) The title documents, the certificates, and decals required by section 33301(4), and the issuing system shall meet security standards minimizing the opportunities for fraud.

''(4) The certificate of title shall include the passenger motor vehicle make, model, body type, year, odometer disclosure, and vehicle identification number.

''(5) The title documents shall maintain a uniform layout, to be established in consultation with the States or an organization representing them.

''(6) A passenger motor vehicle designated as Federal nonrepairable shall be issued a nonrepairable vehicle certificate and shall not be retitled.

''(7) No rebuilt salvage title shall be issued to a salvage vehicle unless, after the salvage vehicle is repaired or rebuilt, it complies with the requirements for a Federal rebuilt salvage vehicle pursuant to section 33301(4). Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. Any such anti-theft inspection program shall include the following:

''(A) A requirement that the owner of any passenger motor vehicle submitting such vehicle for an anti-theft inspection provide a completed document identifying the vehicle's damage prior to being repaired, a list of replacement parts used to repair the vehicle, and proof of ownership of such replacement parts, as may be evidenced by bills of sale, invoices, or, if such documents are not available, other proof of ownership for the replacement parts. The owner shall also include an affirmation that the information in the declaration is complete and accurate and that, to the knowledge of the declarant, no stolen parts were used during the rebuilding.

''(B) A requirement to inspect the passenger motor vehicle or any major part or any major replacement part required to be marked under section 33102 for signs of such mark or vehicle identification number being illegally altered, defaced, or falsified. Any such passenger motor vehicle or any such part having a mark or vehicle identification number that has been illegally altered, defaced, or falsified, and that cannot be identified as having been legally obtained (through bills of sale, invoices, or other ownership documentation), shall be contraband and subject to seizure. The Secretary, in consultation with the Attorney General, shall, as part of the rule required by this section, establish procedures for dealing with those parts whose mark or vehicle identification number is normally removed during industry accepted remanufacturing or rebuilding practices, which parts shall be deemed identified for purposes of this section if they bear a conspicuous mark of a type, and applied in such a manner, as designated by the Secretary, indicating that they have been rebuilt or remanufactured. With respect to any vehicle part, the Secretary's rule, as required by this section, shall acknowledge that a mark or vehicle identification number on such part may be legally removed or altered as provided for in section 511 of title 18, United States Code, and shall direct inspectors to adopt such procedures as may be necessary to prevent the seizure of a part from which the mark or vehicle identification number has been legally removed or altered.

''(8) Any safety inspection for a Federal rebuilt salvage vehicle performed pursuant to this chapter shall be performed in accordance with nationally uniform safety inspection criteria established by the Secretary. A State may determine whether to conduct such safety inspection itself, contract with one or more third parties, or permit self-inspection by a person licensed by such State in an automotive-related business, all subject to criteria promulgated by the Secretary hereunder. Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. A State requiring such safety inspection may require the payment of a fee for the privilege of such inspection or the processing thereof.

''(9) No duplicate or replacement title shall be issued unless the word 'duplicate' is clearly marked on the face thereof and unless the procedures for such issuance are substantially consistent with Recommendation three of the Motor Vehicle Titling, Registration and Salvage Advisory Committee.

''(10) A State shall employ the following titling and control methods:

''(A) If an insurance company is not involved in a damage settlement involving a Federal salvage vehicle or a Federal nonrepairable vehicle, the passenger motor vehicle owner shall apply for a Federal salvage title or Federal nonrepairable vehicle certificate, whichever is applicable, before the passenger motor vehicle is repaired or the ownership of the passenger motor vehicle is transferred, but in any event within 30 days after the passenger motor vehicle is damaged.

''(B) If an insurance company, pursuant to a damage settlement, acquires ownership of a passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or Federal nonrepairable vehicle, the insurance company or salvage facility or other agent on its behalf shall apply for a Federal salvage title or Federal nonrepairable vehicle certificate within 30 days after the title is properly assigned by the owner to the insurance company and delivered to the insurance company or Federal salvage facility or other agent on its behalf with all liens released.

''(C) If an insurance company does not assume ownership of an insured's or claimant's passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a Federal salvage vehicle or Federal nonrepairable vehicle, the insurance company shall notify the owner of the owner's obligation to apply for a Federal salvage title or Federal nonrepairable vehicle certificate for the passenger motor vehicle and notify the State passenger motor vehicle titling office that a Federal salvage title or Federal nonrepairable vehicle certificate should be issued for the vehicle, except to the extent such notification is prohibited by State insurance law.

''(D) If a leased passenger motor vehicle incurs damage requiring the vehicle to be titled as a Federal salvage vehicle or Federal nonrepairable vehicle, the lessor shall apply for a Federal salvage title or Federal nonrepairable vehicle certificate within 21 days after being notified by the lessee that the vehicle has been so damaged, except when an insurance company, pursuant to a damage settlement, acquires ownership of the vehicle. The lessee of such vehicle shall inform the lessor that the leased vehicle has been so damaged within 30 days after the occurrence of the damage.

''(E) Any person acquiring ownership of a damaged passenger motor vehicle that meets the definition of a Federal salvage or Federal

nonrepairable vehicle for which a Federal salvage title or Federal nonrepairable vehicle certificate has not been issued, shall apply for a Federal salvage title or Federal nonrepairable vehicle certificate, whichever is applicable. This application shall be made before the vehicle is further transferred, but in any event, within 30 days after ownership is acquired. The requirements of this subparagraph shall not apply to any scrap metal processor which acquires a passenger motor vehicle for the sole purpose of processing it into prepared grades of scrap and which so processes such vehicle.

''(F) State records shall note when a nonrepairable vehicle certificate is issued. No State shall issue a Federal nonrepairable vehicle certificate after 2 transfers of ownership.

''(G) When a passenger motor vehicle has been flattened, baled, or shredded, whichever comes first, the title or Federal nonrepairable vehicle certificate for the vehicle shall be surrendered to the State within 30 days. If the second transferee on a Federal nonrepairable vehicle certificate is unequipped to flatten, bale, or shred the vehicle, such transferee shall, at the time of final disposal of the vehicle, use the services of a professional automotive recycler or professional scrap processor who is hereby authorized to flatten, bale, or shred the vehicle and to effect the surrender of the Federal nonrepairable vehicle certificate to the State on behalf of such second transferee. State records shall be updated to indicate the destruction of such vehicle and no further ownership transactions for the vehicle will be permitted. If different than the State of origin of the title or Federal nonrepairable vehicle certificate, the State of surrender shall notify the State of origin of the surrender of the title or Federal nonrepairable vehicle certificate and of the destruction of such vehicle.

''(H) When a Federal salvage title is issued, the State records shall so note. No State shall permit the retitling for registration purposes or issuance of a rebuilt Federal salvage title for a passenger motor vehicle with a Federal salvage title without a certificate of inspection, which complies with the security and guideline standards established by the Secretary pursuant to paragraphs (3), (7), and (8), as applicable, indicating that the vehicle has passed the inspections required by the State. This subparagraph does not preclude the issuance of a new Federal salvage title for a Federal salvage vehicle after a transfer of ownership.

''(I) After a passenger motor vehicle titled with a Federal salvage title has passed the inspections required by the State, the inspection official will affix the secure decal required pursuant to section 33301(4) to the driver's door jamb of the vehicle and issue to the owner of the vehicle a certificate indicating that the passenger motor vehicle has passed the inspections required by the State. The decal shall comply with the permanency requirements established by the Secretary.

''(J) The owner of a passenger motor vehicle titled with a salvage title may obtain a Federal rebuilt salvage title or vehicle registration, or both, by presenting to the State the Federal salvage title, properly assigned, if applicable, along with the certificate that the vehicle has passed the inspections required by the State. With such proper documentation and upon request, a Federal rebuilt salvage title or registration, or both, shall be issued to the owner. When a Federal rebuilt salvage title is issued, the State records shall so note.

''(11) A seller of a passenger motor vehicle that becomes a flood vehicle shall, prior to the time of transfer of ownership of the vehicle, give the transferee a written notice that the vehicle has been damaged by flood, provided such person has actual knowledge that such vehicle has been damaged by flood. At the time of the next title application for the vehicle, disclosure of the flood status shall be provided to the applicable State with the properly assigned title and the words 'Federal Flood' shall be conspicuously labeled across the front of the new title.

''(12) In the case of a leased passenger motor vehicle, the lessee, within 15 days of the occurrence of the event that caused the vehicle to become a flood vehicle, shall give the lessor written disclosure that the vehicle is a Federal flood vehicle.

''(13) Ownership of a passenger motor vehicle may be transferred on a Federal salvage title, however, a passenger motor vehicle for which a Federal salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt salvage title.

''(14) Ownership of a passenger motor vehicle may be transferred on a Federal rebuilt salvage title, and a passenger motor vehicle for which a Federal rebuilt salvage title has been issued may, if permitted by State law, be registered for use on the roads and highways.

''(15) Ownership of a passenger motor vehicle may only be transferred 2 times on a Federal nonrepairable vehicle certificate. A passenger motor vehicle for which a Federal nonrepairable vehicle certificate has been issued can never be titled or registered for use on roads or highways.

''(c) CONSUMER NOTICE IN NONCOMPLIANT STATES.—Any State receiving, either directly or indirectly, funds appropriated under section 30503(c) of this title after the date of enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998 and not complying with the requirements of subsections (a) and (b) of this section, shall conspicuously print the following notice on all titles or ownership certificates issued for passenger motor vehicles in such State until such time as such State is in compliance with the requirements of subsections (a) and (b) of this section: 'NOTICE: This State does not conform to the uniform Federal requirements of the National Salvage Motor Vehicle Consumer Protection Act of 1998.'.

''(d) ELECTRONIC PROCEDURES.—A State may employ electronic procedures in lieu of paper documents whenever such electronic procedures provide the same information, function, and security otherwise required by this section.

''§ 33303. Disclosure and label requirements on transfer of Federal rebuilt salvage vehicles

''(a) WRITTEN DISCLOSURE REQUIREMENTS.—

''(1) GENERAL RULE.—Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a Federal rebuilt salvage vehicle shall, prior to the time of transfer of ownership of the vehicle, give the transferee a written disclosure that the vehicle is a Federal rebuilt salvage vehicle when such person has actual knowledge of the status of such vehicle.

''(2) FALSE STATEMENT.—A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

''(3) COMPLETENESS.—A person acquiring a Federal rebuilt salvage vehicle for resale may accept a disclosure under paragraph (1) only if it is complete.

''(4) REGULATIONS.—The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under paragraph (1).

''(b) LABEL REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall by regulation require that a label be affixed to the windshield or window of a Federal rebuilt salvage vehicle before its first sale at retail containing such information regarding that vehicle as the Secretary may require. The label shall be affixed by the individual who conducts the applicable State anti-theft inspection in a participating State.

''(2) REMOVAL, ALTERATION, OR ILLEGIBILITY OF REQUIRED LABEL.—No person shall willfully remove, alter, or render illegible any label required by paragraph (1) affixed to a Federal rebuilt salvage vehicle before the vehicle is delivered to the actual custody and possession of the first retail purchaser.

''(c) LIMITATION.—The requirements of subsections (a) and (b) shall only apply to a transfer of ownership of a Federal rebuilt salvage vehicle where such transfer occurs in a State which, at the time of the transfer, is complying with subsections (a) and (b) of section 33302.

''§ 33304. Report on funding

''The Secretary shall, contemporaneously with the issuance of a final rule pursuant to section 33302(b), report to appropriate committees of Congress whether the costs to the States of compliance with such rule can be met by user fees for issuance of titles, issuance of registrations, issuance of duplicate titles, inspection of rebuilt vehicles, or for the State services, or by earmarking any moneys collected through law enforcement action to enforce requirements established by such rule.

''§ 33305. Effect on State law

''(a) IN GENERAL.—Unless a State is in compliance with subsection (c) of section 33302, effective on the date the rule promulgated pursuant to section 33302 becomes effective, the provisions of this chapter shall preempt all State laws in States receiving funds, either directly or indirectly, appropriated under section 30503(c) of this title after the date of the enactment of the National Salvage Motor Vehicle Consumer Protection Act of 1998, to the extent they are inconsistent with the provisions of this chapter or the rule promulgated pursuant to section 33302, which—

''(1) set forth the form of the passenger motor vehicle title;

''(2) define, in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any term defined in section 33301 or the terms 'Federal salvage', 'Federal nonrepairable', or 'Federal flood', or apply any of those terms to any passenger motor vehicle (but not to a passenger motor vehicle part or part assembly separate from a passenger motor vehicle); or

''(3) set forth titling, recordkeeping, anti-theft inspection, or control procedures in connection with any Federal salvage vehicle, Federal rebuilt salvage vehicle, Federal nonrepairable vehicle, or Federal flood vehicle.

''(b) EXCEPTIONS.—

''(1) PASSENGER MOTOR VEHICLE; OLDER MODEL SALVAGE.—Subsection (a)(2) does not preempt State use of the term—

''(A) 'passenger motor vehicle' in statutes not related to titling, recordkeeping, anti-theft inspection, or control procedures in connection with any salvage vehicle, rebuilt salvage vehicle, nonrepairable vehicle, or flood vehicle; or

''(B) 'older model salvage' to designate a wrecked, destroyed, or damaged vehicle that is older than a late model vehicle.

''(2) CONSUMER LAW ACTIONS.—Nothing in this chapter may be construed to affect any private right of action under State law.

''(c) CONSTRUCTION.—Additional disclosures of a passenger motor vehicle's title status or

history, in addition to the terms defined in section 33301, shall not be deemed inconsistent with the provisions of this chapter. Such disclosures shall include disclosures made on a certificate of title. When used in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any definition of a term defined in section 33301 which is different than the definition in that section or any use of any term listed in subsection (a), but not defined in section 33301, shall be deemed inconsistent with the provisions of this chapter. Nothing in this chapter shall preclude a State from disclosing on a rebuilt national salvage title that a Federal rebuilt national salvage vehicle has passed a State safety inspection which differed from the nationally uniform criteria to be promulgated pursuant to section 33302(b)(8).

''(d) STATUTORY CONSTRUCTION.—Except as specifically provided in this chapter, nothing in this chapter is intended to affect any State law—

''(1) relating to the inspection or titling of, disclosure, or other action concerning salvage, rebuilt salvage, flood, or nonrepairable motor vehicles; or

''(2) that provides for more stringent protection of a purchaser of a used motor vehicle.

''§ 33306. Civil penalties

''(a) PROHIBITED ACTS.—It is unlawful for any person knowingly to—

''(1) make or cause to be made any false statement on an application for a title (or duplicate title) for a passenger motor vehicle or any disclosure made pursuant to section 33303;

''(2) fail to apply for a Federal salvage title when such an application is required;

''(3) alter, forge, or counterfeit a certificate of title (or an assignment thereof), a Federal nonrepairable vehicle certificate, a certificate verifying an anti-theft inspection or an anti-theft and safety inspection, a decal affixed to a passenger motor vehicle pursuant to section 33302(b)(10)(I), or any disclosure made pursuant to section 33303;

''(4) falsify the results of, or provide false information in the course of, an inspection conducted pursuant to section 33302(b)(7) or (8);

''(5) offer to sell any Federal salvage vehicle or Federal nonrepairable vehicle as a Federal rebuilt salvage vehicle;

''(6) fail to make any disclosure required by section 33302(b)(11);

''(7) fail to make any disclosure required by section 33303;

''(8) violate a regulation prescribed under this chapter;

''(9) move a vehicle or a vehicle title in interstate commerce for the purpose of avoiding the titling requirements of this chapter; or

''(10) conspire to commit any of the acts enumerated in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (9).

''(b) CIVIL PENALTY.—Any person who commits an unlawful act as provided in subsection (a) of this section shall be fined a civil penalty of up to $2,000 per offense. A separate violation occurs for each passenger motor vehicle involved in the violation.

''§ 33307. Actions by States

''(a) IN GENERAL.—When a person violates any provision of this chapter, the chief law enforcement officer of the State in which the violation occurred may bring an action—

''(1) to restrain the violation;

''(2) recover amounts for which a person is liable under section 33306; or

''(3) to recover the amount of damage suffered by any resident in that State who suffered damage as a result of the knowing commission of an unlawful act under section 33306(a) by another person.

''(b) STATUTE OF LIMITATIONS.—An action under subsection (a) shall be brought in any court of competent jurisdiction within 2 years after the date on which the violation occurs.

''(c) NOTICE.—The State shall serve prior written notice of any action under subsection (a) or (f)(2) upon the Attorney General of the United States and provide the Attorney General with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting an action, the Attorney General shall have the right—

''(1) to intervene in such action;

''(2) upon so intervening, to be heard on all matters arising therein; and

''(3) to file petitions for appeal.

''(d) CONSTRUCTION.—For purposes of bringing any action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(e) VENUE; SERVICE OF PROCESS.—Any action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

''(f) ACTIONS BY STATE OFFICIALS.—

''(1) Nothing contained in this section shall prohibit an attorney general of a State or other authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

''(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.''.

(b) CONFORMING AMENDMENT.—The table of chapters for part C at the beginning of subtitle VI of title 49, United States Code, is amended by inserting at the end the following new item:

''333. AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS ..... 33301''.

SEC. 3. AMENDMENTS TO CHAPTER 305.

(a) DEFINITIONS.—

(1) Section 30501(4) of title 49, United States Code, is amended to read as follows:

''(4) 'Federal nonrepairable vehicle', 'Federal salvage vehicle', and 'Federal rebuilt salvage vehicle' have the same meanings given those terms in section 33301 of this title.''.

(2) Section 30501(5) of such title is amended by striking ''junk automobiles'' and inserting ''Federal nonrepairable vehicles''.

(3) Section 30501(8) of such title is amended by striking ''salvage automobiles'' and inserting ''Federal salvage vehicles''.

(4) Section 30501 of such title is amended by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(b) NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.—

(1) Section 30502(d)(3) of title 49, United States Code, is amended to read as follows:

''(3) whether an automobile known to be titled in a particular State—

''(A) is or has been a Federal nonrepairable vehicle, a Federal rebuilt salvage vehicle, or a Federal salvage vehicle; or

''(B) was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', or any other symbol or word of like kind, or that the vehicle has been damaged by flood.''.

(2) Section 30502(d)(5) of title 49, United States Code, is amended to read as follows:

''(5) whether—

''(A) an automobile bearing a known vehicle identification number has been reported as a Federal nonrepairable vehicle, a Federal rebuilt salvage vehicle, or a Federal salvage vehicle under section 30504 of this title; or

''(B) the vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', or any other symbol or word of like kind, or that the vehicle has been damaged by flood.''.

(c) STATE PARTICIPATION.—Section 30503 of title 49, United States Code, is amended to read as follows:

''§ 30503. State participation

''(a) STATE INFORMATION.—Each State receiving funds appropriated under subsection (c) shall make titling information maintained by that State available for use in operating the National Motor Vehicle Title Information System established or designated under section 30502 of this title.

''(b) VERIFICATION CHECKS.—Each State receiving funds appropriated under subsection (c) shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

''(1) communicating to the operator—

''(A) the vehicle identification number of the automobile for which the certificate of title is sought;

''(B) the name of the State that issued the most recent certificate of title for the automobile; and

''(C) the name of the individual or entity to whom the certificate of title was issued; and

''(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

''(c) GRANTS TO STATES.—

''(1) In cooperation with the States and not later than January 1, 1994, the Attorney General shall—

''(A) conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

''(B) determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

''(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.

''(d) REPORT TO CONGRESS.—Not later than October 1, 1998, the Attorney General shall report to Congress on which States have met the requirements of this section. If a State has not met the requirements, the Attorney General shall describe the impediments that have resulted in the State's failure to meet the requirements.''.

(d) REPORTING REQUIREMENTS.—Section 30504 of title 49, United States Code, is amended by striking ''junk automobiles or salvage automobiles'' every place it appears and inserting ''Federal nonrepairable vehicles, Federal rebuilt salvage vehicles, or Federal salvage vehicles''.

SEC. 4. DEALER NOTIFICATION PROGRAM FOR PROHIBITED SALE OF NONQUALIFYING VEHICLES FOR USE AS SCHOOLBUSES.

Section 30112 of title 49, United States Code, is amended by adding at the end thereof the following:

''(c) NOTIFICATION PROGRAM FOR DEALERS CONCERNING SALES OF VEHICLES AS SCHOOLBUSES.—Not later than September 1, 1998, the Secretary shall develop and implement a program to notify dealers and distributors in the United States that subsection (a) prohibits the sale or delivery of any vehicle for use as a schoolbus (as that term is defined in section 30125(a)(1) of this title) that does not meet the standards prescribed under section 30125(b) of this title.''.

Passed the Senate October 2, 1998.

Mr. LOTT. Mr. President, today, I want to talk to my colleagues about used cars. No, I don't want to sell one, I want to talk about how my colleagues have worked to protect every American who purchases a used car.

Mr. President, the Title Branding Bill that I co-authored with Senator FORD passed this chamber by unanimous consent. This significant consumer protection legislation is long overdue. It will protect you and other consumers from unknowingly buying a severely damaged auto from dishonest rebuilders.

Our bill will help eliminate the growing fraud of selling rebuilt vehicles that have been ''totaled'' and then sold to consumers who are never informed of the vehicle's damage history. This deceptive practice costs Americans nearly $4 billion annually. Today, Congress has helped solve this $4 billion problem.

Mr. President, here is another statistic that scares me, and should also scare our colleagues. It is estimated that each year, one million cars are totaled, rebuilt, and put back on the roads. As you go home tonight try to imagine which car around you is one of the million put back this year.

Clearly Senator FORD and I have addressed an issue that affects everyone—those who buy and drive used cars and those who share the roads with them. Remember, that's one million totaled cars per year that are structurally unsafe to drive. These previously totaled cars and trucks are put back on our roads here in DC, in my home state of Mississippi, and all across the nation.

Mr. President, I am pleased that some states require disclosure on a vehicle's title to indicate its damage history, however, these requirements vary from state to state. As a result, unscrupulous re-builders can take advantage of the inconsistencies in state titling procedures to obtain what are known as ''clean or washed'' titles. Adopting a uniform federal standard will eliminate this problem by closing the loopholes.

In 1992, Congress directed the Secretary of Transportation to establish a taskforce to study the problems related to motor vehicle titling, and more importantly, the specific problems that have contributed to this serious consumer fraud. The taskforce included all stakeholders representing a wide array of interests. This diverse group provided specific recommendations that became the foundation upon which Senator FORD and I built S. 852, the National Salvage Motor Vehicle Consumer Protection Act. Mr. President, our goal is simple and direct—to protect Americans on our roads with a uniform disclosure standard.

Mr. President, contrary to what some people believe, our bill is not a federal mandate on the states. The bill does not restrict the ability of states to adopt higher ''damage disclosure'' requirements. Rather this bill provides the basic minimum federal standard while giving states the necessary flexibility to adopt more regulations if they so choose.

As a result of our bipartisan effort, we have a bill that I firmly believe will benefit individuals, state motor vehicle administrators, automobile dealers, insurance companies and policy holders, consumer groups, salvage yards and many others involved in used car commerce.

Our bill requires that if a salvage vehicle is rebuilt, it must have a theft inspection, as well as any required state safety inspection, and a branded title must be obtained before the vehicle is considered road-worthy. In addition, all rebuilt salvage vehicles must have a decal permanently affixed to the driver's door jamb, and its window, indicating that the vehicle has been rebuilt and specifying whether the vehicle has passed an approved safety inspection.

In the future, a vehicle's title will disclose the damage history with a uniform minimum standard. A brand from one state will be carried forward to any new state in which the vehicle is registered. And, irreparably damaged vehicles' Vehicle Identification Numbers (VIN) will be tracked to help address automobile theft. I would also like to point out that while civil damages may be recovered by those who are victims of these fraudulent schemes, this bill will not prohibit currently permitted private rights of action.

Mr. President, this legislation is a major step toward reducing motor vehicle titling fraud, improving consumer protection and disclosing valuable information to every American, their families and friends about a vehicle's damage history.

Mr. President, as I mentioned earlier, this bill has been crafted in a bipartisan fashion. I want to thank my Commerce Committee colleague from Kentucky, the Minority Whip, Senator FORD, for co-authoring this legislation with me. This bill is a fitting tribute to protect consumers as my friend retires from the Senate this year.

I also greatly appreciate the support and cosponsorship of 57 of my colleagues in the Senate, including the distinguished Minority Leader, Senator DASCHLE. I also appreciate the efforts of Senator MCCAIN for his stewardship as Chairman of the Senate Commerce Committee. Additionally, I want to thank Senator HOLLINGS for his input and contributions to this legislative approach. I also want to commend my friend and colleague from Washington State, Senator GORTON, for his diligent work over the past several months to improve this bill. Senators LEVIN and FEINSTEIN also deserve recognition for their efforts to provide states with maximum flexibility.

Mr. President, I also want to take this opportunity to congratulate all of my colleagues for passing this important nonpartisan measure by unanimous consent. It is another example of how this Congress can put aside partisan differences and deliver significant legislation for the American people.

In this particular case, it demonstrates that my colleagues are serious about protecting American consumers from fraud. By promoting the use of a uniform disclosure standard, Congress will help put dishonest rebuilders out of business, save consumers and automobile dealers as much as $4 billion annually, and keep 1 million totaled vehicles from being put back on the road each year.

I would like to take a moment and recognize a few people who made this legislative effort successful. The first is Mr. Al East of East Ford in Jackson, Mississippi. Mr. East, a past president of the Mississippi National Automobile Dealers Association, identified the problem facing consumers and dealers in my home state and across the country

As an automobile dealer himself, Mr. East knows first hand the tremendous cost that title washing has on the used car industry. Al East's dedication to his clients, his community and to American automobile industry, and his work on the Board of Directors for the National Automobile Dealers Association has positively effected this much needed legislation.

I also want to recognize Ruddy Dossett, of Dossett Big Four in Tupelo, Mississippi for his testimony before the Commerce Committee.

Additionally, I would like to acknowledge the Congressional staff who labored on the details. They include Clay Williams and Steven Apicella from my office, Lance Bultena, Jim Drewery and Moses Boyd from the Commerce Committee, David Regan from Senator FORD's office, and Jeanne Bumpus, from Senator GORTON's office. Each made a significant and tangible contribution to the bill. Each had the used car consumer in mind as they dotted the i's and the t's.

As you are aware Mr. President, the House of Representatives took up a different companion bill last year that passed by an overwhelming majority. I call upon the House to complete the legislative process by working with the Senate's conferees and by ultimately passing this important automobile titling legislation.

Mr. President, I am very proud that members from both sides of the aisle are continuing to fulfill the peoples' business.

By passing this title branding bill today, the Senate has taken an important step toward removing structurally unsafe cars and trucks that would otherwise share the roads with our friends, neighbors, and loved ones. On behalf of all American motorists, I thank all my colleagues for voting in favor of this important pro-consumer, anti-fraud, anti-criminal legislation.

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

RECESS UNTIL 11 A.M., MONDAY, OCTOBER 5, 1998

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until Monday, October 5, 1998, at 11 a.m.

Whereupon, the Senate, at 4:57 p.m., recessed until Monday, October 5, 1998, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 1998:

DEPARTMENT OF JUSTICE

MARIA BORRERO, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE OFFICE FOR VICTIMS OF CRIME, VICE AILEEN CATHERINE ADAMS.

POSTAL RATE COMMISSION

DANA BRUCE COVINGTON, SR., OF MISSISSIPPI, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING OCTOBER 14, 2004, VICE GEORGE W. HALEY.

EDWARD JAY GLEIMAN, OF MARYLAND, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING OCTOBER 14, 2004. (REAPPOINTMENT)

CONFIRMATION

Executive nomination confirmed by the Senate October 2, 1998:

THE JUDICIARY

SONIA SOTOMAYOR, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.