The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

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

Dear God, help us to put into action what we believe. We believe in You as sovereign of this Nation. Strengthen our wills to seek to do Your will. Our motto is, “In God we trust.” Help us to trust You in the specific decisions that must be made.

We believe You have called us here to serve. Help us to be servant leaders, distinguished for diligence. Make this a “do it now” quality of day in which we live life to the fullest.

We affirm Your presence, we accept Your love, we rejoice in Your goodness, we receive Your guidance, and we praise Your holy name. Amen.

NOTICE
If the 105th Congress adjourns sine die on or before October 12, 1998, a final issue of the Congressional Record for the 105th Congress will be published on October 28, 1998, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or ST–41 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through October 27. The final issue will be dated October 28, 1998, and will be delivered on Thursday, October 29.

If the 105th Congress does not adjourn until a later date in 1998, the final issue will be printed at a date to be announced.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators’ statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at “Records@Reporters”.

Members of the House of Representatives’ statements may also be submitted electronically on a disk to accompany the signed statement and delivered to the Official Reporter’s office in room HT–60.

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By order of the Joint Committee on Printing.

JOHN W. WARNER, Chairman.

NOTICE
Effective January 1, 1999, the subscription price of the Congressional Record will be $325 per year, or $165 for 6 months. Individual issues may be purchased for $2.75 per copy. The cost for the microfiche edition will remain $141 per year; single copies will remain $1.50 per issue. This price increase is necessary based upon the cost of printing and distribution.

MICHAEL F. DiMARIO, Public Printer.

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

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RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICIAL (Mr. HAGEL). The Senate majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning, the Senate will be in a period for morning business until 12:30 p.m. Following morning business, the Senate can be expected to consider any legislative or Executive Calendar items clear from the desk, although I don't expect any items to be cleared today. Votes are not anticipated during Saturday's session of the Senate, and it is expected that the Senate will not be in on Sunday, but we will be in Monday afternoon at a time we will discuss with the Democratic leadership.

During Friday's session, the Senate passed a continuing resolution allowing Government to operate until midnight Monday. So it will be anticipated that by Monday afternoon, we will have agreement on an omnibus appropriations bill or we need to consider another short-term continuing resolution.

Negotiations are ongoing at this time with regard to a number of issues, including the tax extender issue, a number of authorizations and appropriations issues, all of which could end up in the omnibus appropriations bill. Of course, there is a possibility on Monday, or at some point, some of the bills that are being discussed in connection with the omnibus appropriations bill might move separately. One example is the Treasury-Postal Service conference report. If we can get an agreement in the omnibus bill on some of the issues involved in that bill, that became controversial, if we get that worked out, we can move the bill freestanding, but all of that is in the process of being discussed right now.

We will update our colleagues as progress is being made. I think that progress is occurring. A lot of negotiations are going on this morning and will continue throughout the afternoon. We have had meetings between the congressional leadership and the White House this morning. We expect to meet again at 5 o'clock this afternoon to get an assessment of where we are. We are getting Senators and House Members, Democrats and Republicans, involved in all those negotiations.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 872 through 885 and all nominations on the Secretary's desk in the Army, Marine Corps and Navy. I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

The nominations considered and confirmed, en bloc, are as follows:

IN THE AIR FORCE

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general
Col. James C. Burdick, 0000

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force, to the grade indicated under title 10, U.S.C., section 12203:

To be major general
Brig. Gen. Walter R. Ernst, II, 0000
Brig. Gen. Bruce W. MacLane, 0000
Brig. Gen. Paul A. Pochmar, 0000
Brig. Gen. Mason C. Whitney, 0000

To be brigadier general
Col. John H. Bubar, 0000
Col. Verna D. Fairchild, 0000
Col. Robert L. Gruber, 0000
Col. Michael J. Haugen, 0000
Col. Walter L. Hodgson, 0000
Col. Larry V. Lunt, 0000
Col. William J. Lutz, 0000
Col. Stanley L. Prueitt, 0000
Col. William K. Richardson, 0000
Col. Ravindra F. Shah, 0000
Col. Harry A. Sieber, Jr., 0000
Col. Edward N. Stevens, 0000
Col. Merle S. Thomas, 0000
Col. Steven W. Thu, 0000
Col. Frank E. Toge, 0000

IN THE ARMY

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

To be brigadier general
Col. Harry A. Curry, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 441 and 601:

To be lieutenant general
Maj. Gen. Michael A. Canavan, 0000

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general
Col. John M. Schuster, 0000

The following named officer for appointment in the United States Army to the grade indicated while serving as the Director, National Imagery and Mapping Agency designated as a position of importance and responsibility under title 10, U.S.C., section 441 and 601:

To be lieutenant general
Maj. Gen. James C. King, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general
Maj. Gen. Edwin P. Smith, 0000

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

To be major general
Brig. Gen. Anthony R. Jones, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general
Maj. Gen. Michael L. Dodson, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general
Maj. Gen. Randall L. Rigby, Jr., 0000

The following named officers for appointment in the Reserves of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general
Brig. Gen. Jerald N. Albrecht, 0000
Brig. Gen. Wesley A. Beal, 0000
Brig. Gen. William N. Kiefer, 0000
Brig. Gen. William B. Raines, Jr., 0000
Brig. Gen. John L. Scott, 0000
Brig. Gen. Richard O. Wightman, Jr., 0000

To be brigadier general
Col. Anthony D. DiCorleto, 0000
Col. Gerald D. Griffin, 0000
Col. Timothy M. Haake, 0000
Col. Joseph C. Joyce, 0000
Col. Carlos D. Pair, 0000
Col. Paul D. Patrick, 0000
Col. George W. Petty, Jr., 0000
Col. George W.S. Read, 0000
Col. John W. Weiss, 0000

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 601:

To be rear admiral (lower half)
Capt. Marianne B. Drew, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral
Rear Adm. Scott A. Fry, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral
Vice Adm. Patricia A. Tracey, 0000

NOMINATIONS PLACED ON THE SECRETARY’S DESK

IN THE ARMY, MARINE CORPS, NAVY

Army nominations beginning Michael C. Aaron, and ending Richard G. Zoller, which nominations were received by the Senate and appeared in the Congressional Record of September 30, 1998.

Army nominations beginning Matthew L. Kambic, and ending James G. Pierce, which nominations were received by the Senate and appeared in the Congressional Record of September 30, 1998.

Marine Corps nomination of Jeffrey M. Dunn, which was received by the Senate and appeared in the Congressional Record of September 29, 1998.

Navy nomination of Michael C. Gard, which was received by the Senate and appeared in the Congressional Record of September 11, 1998.

Navy nomination of Thomas E. Katana, which was received by the Senate and appeared in the Congressional Record of September 16, 1998.
Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Monday, October 12. I further ask unanimous consent that the time for the two leaders be reserved.

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

Mr. LOTT. Mr. President, I further ask unanimous consent that there then be a period for the transaction of morning business until 3 p.m.—that will be on Monday—with Senators permitted to speak for up to 5 minutes each.

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

PROGRAM

Mr. LOTT. Mr. President, we will come in at 2 p.m., unless there is some need to change it on Monday. We will be in a period for morning business until 3 p.m., and the Senate will then proceed to any legislative or Executive Calendar items that may be cleared for action, and particularly when we do get to the final day, it is my hope and my expectation that some conference reports or some bills that may be available can be cleared for action. I know there is a possibility of that being available, and also nominations still continue to be a possibility, although all of that depends on how the negotiations go. We can't be tied up trying to work through nominations and conference reports while also being involved in negotiations on the omnibus bill. Senators will be advised of the voting situation as long as possible, hopefully 24 hours in advance of any recorded vote.

EDUCATION

Mr. LOTT. Mr. President, let me just say briefly, Mr. President, on the education issue, it is very difficult to deal with these negotiations fairly and honestly and productively when you have the President and the Democratic leadership coming out and bashing negotiators on issues like education. It also makes it difficult, when you have that happen, to be able to work with people with whom you disagree philosophically, and try to work in good faith, but also it begins to diminish respect and trust.

That is one of the biggest problems we have right now. It is so difficult to maintain a sufficient level of trust to be able to get your work done. I think most people who know me—Senators on both sides of the aisle—know that is very important to me. I strive to be trustworthy myself and to keep my word, and I find it very hard to work with people who I don't have that same feeling about.

When it comes to education, I will stand aside to nobody, especially a bunch of people who went to private schools and then holler and scream about what ought to happen in public schools. I went to public schools from the first grade right through college. I went to public schools from the first grade right through college. I went to Duck Hill Elementary and Grenada Elementary and Pascagoula Junior High School. My wife went to public schools. My children went to public schools.

I believe and care about education and public schools. I worked for the University of Mississippi. My mother was a former schoolteacher. She taught school for 19 years.

For the President to get up down there and demagoguery on this issue about how he is not getting his principles in education is very hard for me to accept. Mr. President. What he wants is a Federal education program. He wants it dictated from Washington. He wants it run by Washington bureaucrats, and he wants it his way.

I don't have faith in Washington bureaucrats. When the money comes to Washington, it trickles down through the Atlanta bureaucracy and trickles down to the Jackson bureaucracy, by the time it gets to the teachers and the kids, half of it is gone. And they are told, you must spend it this way or that way, when it may not be the way it is needed.

I have faith in local school administrators, local teachers, parents, and, yes, the children, to make the decisions about what is needed for reading, what is needed in remedial math, what is needed to fight the drug problem. And so that is the basic difference for the American people. I ask you, who do you trust on education? The local officials, the local school officials, the parents, or Washington bureaucrats? That is the choice.

President Clinton and his bureaucrats, the liberals in Washington, they want to run education and manipulate education from Washington, DC. The Republicans say we should return the money to the local level. If the schools want to use it for reading, fine. If they want to use it for extra teachers, great. If they want to use it for more school construction, that is their choice. If they want to use it for a drug-free school program great; do that.

That is the difference. Who do you trust? Local officials or national officials? Who do you trust on education? The son of a schoolteacher and people who went to public education, or pampered people who want to run education and manipulate the American people. I ask you, who do you trust on education?

Mr. SENATE CHIEF CLERK addressed the Chair.

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in recess under the previous order.

I withhold that for one second. Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

(The remarks of Mr. CHAFEE pertaining to the introduction of S. 267 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in recess under the previous order.

The PRESIDING OFFICER. The question is on the motion. All those in favor—Mr. DORGAN. I object.

The PRESIDING OFFICER. This is not a unanimous consent.

The question is on the motion. Mr. DORGAN. 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. FRIST. 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. FRIST. Mr. President, I rise to speak in morning business.

The PRESIDING OFFICER. If the Senator from Tennessee would suspend, there is a motion to recess pending.

Mr. LOTT. Mr. President, I ask unanimous consent to withdraw the motion to recess.

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

The Senator from Tennessee.

REGARDING THE MEDICARE+CHOICE PROGRAM

Mr. FRIST. Mr. President, the Medicare+Choice program was created as part of the Balanced Budget Act of 1997 to provide Medicare beneficiaries with high quality, cost effective options, in addition to the continuing option of traditional fee-for-service Medicare. When fully implemented, Medicare+Choice will provide seniors with one stop shopping for health care; including hospital and physician coverage, prescription drugs, and even preventive benefits, at a savings.
This change in Medicare is monumental. It is dramatic. And it is essential to preserving and strengthening Medicare for our seniors and individuals with disabilities. This change breeds challenges—some that can be predicted, which can be fixed, and others yet to be defined. The potential for these challenges to hurt and harm is very real. The senior, so relieved to finally find a health plan that covers the cost of his prescription drugs because of Medicare+Choice, hears this week that he might not have that plan—or that coverage next year.

Who to call? What to do? We as a government must respond. This Administration must move decisively to respond to the need to change in the service areas. We on the National Bipartisan Commission on the Future of Medicare are working hard to address ways to strengthen the security provided by Medicare. And the red flags raised by the announcements this week underscore the importance of this work. No longer can we be satisfied with an outdated, 30 year old bureaucracy as the best we have to care for our nation’s seniors. A typical 65 year old senior who retires moves from a private sector health care system—with a variety of quality, low cost options, including prescription drug protection and lifetime pocket protections—to a more limited, antiquated government program, without any limits on how much you are required to pay and no drug coverage. By updating Medicare, we not only ensure its continued existence past the current bankruptcy date 10 years from now, but we provide continuity of care, limited out of pocket expenses, and a mechanism for improving quality of care that you the patient receive.

As of October 8, forty-three of the current health care plans participating in Medicare announced their intention not to renew their Medicare contracts in 1999. Another 52 plans are reducing service areas. The net result is that 414,292 beneficiaries in 371 counties face the daunting task of securing alternative coverage provided by Medicare by January 1, 1999. Although this represents a number of total beneficiaries, about one percent, those who have relied on their health plan to bridge the traditional gap between Medicare and Medigap now must either find another HMO (which means switching doctors in many cases), or move back to traditional fee-for-service Medicare which frequently means more personal expense. Should these individuals choose the traditional Medicare option, they will probably also scramble to find a supplementary Medigap policy, with likely higher premiums than their original Medigap policy and perhaps fewer benefits. 10% of the disadvantaged beneficiaries live in areas where no alternative Medicare and Medigap now must either find another HMO (which means switching doctors in many cases), or move back to traditional fee-for-service Medicare which frequently means more personal expense. Should these individuals choose the traditional Medicare option, they will probably also scramble to find a supplementary Medigap policy, with likely higher premiums than their original Medigap policy and perhaps fewer benefits. 10% of the disadvantaged beneficiaries live in areas where no alternative Medicare

The health insurance industry is responding defensively to charges that they have “abandoned beneficiaries.” They contend that in many regions Medicare’s payments to HMOs fall far short of even covering the cost of care for beneficiaries. Furthermore, they argue at the very time a fledgling market structure for health care is developing, the Administration has instead placed such rigid bureaucratic burdens that their hands are tied and they have no choice but to opt out of certain regions. Some believe the recent pullouts may simply be an effort on the part of insurance companies to bide time in the hopes that Congress will eventually ease requirements and make further progress with plan payments. Seeing that their HMO competitors, provider-sponsored plans, or PSO’s, have also been wary of Medicare+Choice contracts. Their uneasiness over the Administration’s treatment of new participants? Howewer, is secondary to their concern that private sector plans may boycott their facilities, viewing them as competing insurers, rather than providers. PSO’s face an uphill battle with state regulatory agencies. They fear that other insurers will use them as a “dumping ground” for the expensive, chronically ill cases many insurers are tempted to avoid.

Both HMOs and PSOs complain loudly about the high administrative costs inherent in new Medicare contracts. By participating with the government, they agree to submit large amounts of data, pay for extensive education campaigns for their enrollees, participate in government sponsored health fairs, and keep up with all the regulatory rules and regulations. Mayo Clinic estimates that the rules governing their participation in Medicare are spelled out in 111,088 pages of regulation, guidance, and supporting documents. In government should listen to this call for simplification, streamlining the regulatory burden, demanding accountability without trying to micro-manage.

The Health Care Financing Administration (HCFA), the government agency in charge of Medicare, is surprisingly optimistic and upbeat about the long term feasibility of Medicare+Choice. They urge skeptics to remember that the program is in its infancy. They point to Medicare HMO participation, which after a rocky start in the mid 1980s, now boasts one in six Medicare beneficiaries. They anticipate increased enrollment as more Medicare recipients have a greater understanding of their options and of how the opportunity to have a plan that meets specific needs meaning better care with greater security, not less. To date, full scale educational efforts have only occurred in five states. The beneficiary education program, which includes print materials and health fairs, is scheduled for nationwide expansion by August, 1999. Most seniors are still unaware of their options in their regions. Many associate expanded choice with insecurity. Only time will tell how this will change. And that is a government responsibility.

HCFA also takes issue with the HMO’s assertion that it is underpaying managed care plans. They cite evidence obtained by the Physician Payment Review Commission in 1997 that Medicare has been paying $2 billion a year too much to managed care plans. This revelation led the current administration to reject the insurance companies’ proposal to resubmit their cost projections, to obtain additional reimbursement. HCFA did not intend to raise reimbursement levels, and feared that such an opportunity would allow plans to hike premiums and decrease benefits. In addition, HCFA points to reluctance on the part of HMOs to pay their fair share of marketing and education costs. But, despite HCFA’s point that, in the aggregate, they overpay HMOs, the agency governing Medicare+Choice has not be adequately considering the fact that within that average there may well be plans with a disproportionate number of older and sicker beneficiaries who are indeed underpaid. We must be committed to fair and just payment to these plans for the service we are asking them to deliver. Because of the tendency, at the federal level, to look at

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averages, rather than individuals, and the reality of where people live, we must commit to address reasonable compensation in greater detail. The reality is: the reimbursement system for health care plans is surprisingly dis-associated with the actual cost of delivering care. We must invest today in designing and implementing a realistic, scientifically based reimbursement structure.

A key component of the Balanced Budget Act was the move toward equity in payment across the country. Many HMOs were counting on receiving additional funds, following review by HCFA on the vast geographic disparities in payment. However, HCFA decided to postpone this adjustment until 2000, based on inadequate funds following an across-the-board 2% update. Thus, the so-called “blended rates” will not be applied until 2000. HCFA plans to incorporate risk adjustment in 2000 to reduce selective enrollment by plans and reduce total over-payments to managed care plans. HCFA has also recognized the adjustments necessary in implementing new plans, and has thus allowed leeway with treatment plans. There are some who feel that recent developments could have been avoided if HCFA acted more rapidly and more responsibly in carrying out Congress’ mandate. Congressman Bilirakis, chairman of the House Commerce Subcommittee on Health and the Environment, stated that federal health officials were “guided by a rigid bureaucratic mentality which led to ossification rather than modernization of the Medicare program.”

The decision of so many managed care plans to withdraw and downsize their Medicare contracts raises a red flag. We must first resolve the immediate coverage disruptions facing many of our elderly. Then we—this Congress, this President, HCFA, the insurance industry and seniors—must pledge to work together to make this program a success. Not only in the short term, but with an eye to the future. To survive, Medicare must change. Medicare needs the flexibility to respond to the changing health care environment, not only for our generation, but for our children and grandchildren. Now is the time for commitment and compassion, rather than overreaction or premature failure of changes made to date. Knee jerk reactions, rather than thoughtfully moving to solve the problems, will only wreak further havoc on this evolving program. A commitment to education, and a more rational, responsive administrative and oversight structure must be pursued to meet future needs in Medicare and the care of our seniors. On a positive note, there are 48 pending applications of private plans wishing to enter the Medicare Market; 25 plans have been reviewed and their contracts are in service areas. By working with HCFA, the insurance industry, hospitals, health care providers, and beneficiaries, we can assure that the Medicare-Choice program will reach its full potential of better and more secure care for seniors and individuals with disabilities.

Also embedded within my remarks is a challenge to the Congress. Although we just passed, last year, the Balanced Budget Act that stretched the solvency of Medicare until 2008, it is clear that the Congress must promptly revisit Medicare once the National Bipartisan Commission on Medicare and the Medicaid Programs files its report by March 1, 1999. The dynamics of American health care, and the rapid changes in care for the nation’s seniors, will not allow for maintenance of the status quo for the next decade. It is my hope that the current focus on Medicare+Choice serves as a catalyst for renewed discussion on the future of Medicare once we have the Medicare Commission’s recommendations in hand. We will be remiss in our responsibility if we do not again next year consider our efforts to improve the solvency and improve the quality of the Medicare program—for our seniors, our parents and grandparents, today—and for all Americans—including our children—tomorrow. Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. GRAMS. I object.

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

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

EDUCATION AND THE FEDERAL GOVERNMENT

Mr. DORGAN. Mr. President, I would like to respond briefly to the comments made by the majority leader earlier this morning on the subject of education.

I have great respect for our Senate majority leader. He and I agree on some things and disagree on others, but I always have great respect for his opinion. But on the issue of schools and what kind of, if any, involvement the Federal Government shall have on this issue, I think we have a very substantial disagreement.

State and local governments, especially local school boards, will always run our school system, and that is how it should be. I don’t suggest, and would never suggest, that we change that. However, there are some things that we can and should aspire to as a nation in dealing with education. One is to improve and invest in the infrastructure of our schools. I have spoken on the floor a good number of times about the condition of some of the schools in this country. I won’t go into that at great length, but let me just describe a couple of them.

At the Cannon Ball Elementary School in Cannon Ball, ND, most of the children going to that school are Indian children. There are about 150 students who must share only 11 bathrooms and one water fountain. Part of the school has been condemned. Some of those students spend time in a room down in the older part of the school that can only be used during certain days of the week because the stench of leaking sewer gas frequently fills that room with noxious fumes that require it to be evacuated.

They can’t connect that school to the Internet because the wiring in that 50-year-old facility will not support technology. The young children go through those schoolroom doors are not getting the best of what this country has to offer. And that school district simply does not have the funds on its own to repair that school or build a new one.

I challenge anyone in this Congress to go into that school building and say no to young Rosie in third grade who asked me, “Mr. Senator, can you buy this school?” I challenge anyone to go into that school, and decide whether that is the kind of school you want your children to go to. Can you say that your children are entering a classroom that you are proud of? I don’t think so.

That school district doesn’t have the capacity to repair that school on its own. It has a very small tax base that will not support a bonding initiative for building a new school. There are schools like that—the Cannon Ball Elementary School, the Indian School on the Turtle Mountain Reservation—all over this country, and we ought to do something about it. We can do something about it we enacted a number of proposals on school construction. That ought to be a priority for this Senate. So, too, ought this Senate have as its priority trying to help State and local governments and school districts reduce class size. It makes a difference.

I have two children in public schools, in grade school. One goes to school in a trailer, a portable classroom. The other is in a class with 28 or 29 students. And it has almost always been that way. Would it be better if they were in schools with class sizes of 15, 16 or 18 students? Of course, it would. Does a teacher have more time to devote to each student with smaller classrooms? Of course. Of course. Can we do something about that? Only if this U.S. Senate determines that education is a priority. Only if we decide to do something about it. I am not suggesting that we decide that we ought to run the local school systems; that is not
the case at all. But we should decide that we as a nation have the capability and the will to modernize and help construct the kind of schools that all of us would be proud to send our children to.

NEED FOR URGENT ACTION ON HOME HEALTH CARE

Mr. DORGAN. Mr. President, as we reach the conclusion of this 105th Congress, I note that there are a good many issues yet to be discussed and resolved. I wanted to come to the floor to talk about one issue that is very important, the issue of home health care. It is vitally important that Congress take action on this issue before adjourning.

I am very familiar with home health care. This is not theory to me. It is not an issue that I just read about and only understand from books and manuals and rules and regulations.

On November 6, 1980—a Wednesday evening in January a number of years ago, my mother was killed in a tragic manslaughter incident in North Dakota. She had gone to the hospital to visit a friend and on her drive home, four blocks from home, a drunk driver going 80 to 90 miles per hour and being chased by the police hit her and killed her instantly.

During this same period, my father was having significant health problems, and as so often is the case, my mother was providing the bulk of his care at home in Bismarck, ND. I will perhaps never forget the moment of having to wake my father up and tell him that my mother had lost her life.

In addition to the shock of losing our mother, my family understood that we were also going to have to struggle to make sure my father got the care he needed. In the days ahead, we began talking about what we could do to help my father in his fragile state of health. One of the things we discovered was that there is in this country a system of home health care. Through this system, skilled health care providers will come into the home on a routine basis to help to meet the health care needs of those who desperately need it.

My family used the home health care system and the services of wonderful nurses and others who worked in home health care for my father. It allowed us to keep my father out of a nursing home. He lived in the home that he had lived in for so many years with my mother.

Was that important? Yes. It was very important and made life much, much better for him. And it occurred because we have a home health care system that could provide the needed health care needed to allow my father to continue to live at home. My father is gone now, but I still remember how important that home health care was and still is to millions of families all across this country.

Home health care is a wonderful Medicare benefit because it allows older Americans to remain at home and to be independent where they are most comfortable, rather than having to go into more costly hospitals or nursing homes.

But at this time, we have in our country a very serious financing problem with home health care that is jeopardizing this Medicare benefit. Before we end this session of the Congress, we need to do something to address it. I would like to describe just for a moment what that problem is.

Recently, Congress made fair to the historically inefficient home health care providers.

There have been dozens of bills introduced to solve the problem, and to date more than two-thirds of the Senate from both political parties have cosponsored one or more of these bills, or have gone on record in support of efforts to address the problem.

With nearly 70 Senators cosponsoring or supporting legislation of this type, I think we ought to, before Monday evening or whenever we adjourn, fix this home health care system.

I know my colleagues on the Senate Finance Committee have been working to develop legislation that will at least deal with the most pressing problems in this interim payment system and to begin to do that.

I will say to the majority leader that this will be an interesting couple of days. He, I am sure, will have a significant challenge working with all of us to try to figure out what the priorities will be in the closing hours of the night.
this session. It is my fervent hope that one of those priorities will be to address the interim payment system in home health care.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the previous unanimous consent agreement with respect to morning business on Monday, October 12, be amended so that 30 minutes are under the control of Senator Bob Kerry, 15 minutes under the control of Senator Ford, and the remaining 15 minutes under the control of Senator Lott, or my designee.

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

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that morning business be extended until 3 p.m., with Senators permitted to speak for up to 10 minutes each for debate only with no motions in order, and at 3 p.m. the Senate automatically stand in recess under the previous order.

I further ask that during morning business the following Senators be recognized: Senator John Kerry for 15 minutes, Senator Daschle for 30 minutes, Senator Kennedy for 20 minutes, Senator Glenn for 15 minutes, Senator Klementz for 20 minutes, Senator Gramm for 20 minutes, and Senator Domenici for 20 minutes.

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

Mr. DORGAN. Mr. President, reserving the right to object, and I shall not object, I would like to inquire of the Senator from Mississippi, is that the only morning business leadership would intend to have on Monday? I would like to have 15 minutes in morning business on Monday as well.

Mr. LOTT. I think we will be able to extend that. It was just we had specific requests. Senator Bob Kerrey was here. He needs 30 minutes on intelligence. We had thought we would have at least an hour just in general, but we are getting specific requests. I am sure we will extend it. On Monday, hopefully, we will be able to do some business and, hopefully, even do the omnibus appropriations bill. But there is no need to limit it just to that. We will extend it.

Mr. DORGAN. Would the Senator be willing to add me for 15 minutes on Monday?

Mr. LOTT. I certainly will. I ask unanimous consent that Senator Dorgan have 15 minutes in morning business as well on Monday, October 12.

Mr. KENNEDY. Mr. President, would the Senator be kind enough to make a similar request on my behalf?

Mr. LOTT. Why don't I just ask for 15 minutes every morning for Senator Kennedy for the remainder of the year.

The PRESIDING OFFICER. Is that the Senator's request?

Mr. LOTT. No.

Mr. KENNEDY. And a happy birthday to you.

Mr. LOTT. I amend that request to include 15 minutes for Senator Kennedy on Monday morning, also.

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

Mr. LOTT. I yield the floor.

Mr. KENNEDY. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I hope my friend, our majority leader, had a joyous and happy birthday.

Mr. LOTT. Thank you very much.

Mr. KENNEDY. Maybe it is spilling over to today. But we wish to thank him.

FUNDING EDUCATION

Mr. KENNEDY. Mr. President, I appreciate the opportunity to speak on the Senate floor this afternoon about matters which I am very hopeful can be addressed and will be addressed and I think should be addressed in the remaining hours before the Congress adjourns in terms of the total number of teachers.

I am very hopeful that in the ultimate and final budget agreement there will be an agreement on the President's recommendation of 100,000 teachers over the period of the next 5 years, and that we will also embrace the very, very important, and, I think, essential school modernization program which effectively would provide about $2 billion in interest-free bonds to local communities all over this country in order to modernize their schools.

What we have seen now is a rather dramatic change in the demographics and the growth in the total number of children who are going into the school systems across this country, and at the same time you have seen a continued deterioration in many of the school buildings across the country. That is certainly true in my State, which has many of the oldest school buildings in the country, and true in many of the other States across this country, and even in a number of the rural communities.

As a matter of fact, the General Accounting Office did a study in terms of what would be necessary in our country in order to make sure that we are going to have good classrooms for the students, and it was estimated to be $110 billion. That is what the need is according to a nonpartisan evaluation of what the conditions are in our school buildings across the country.

Therefore, the recommendation the President has made for $122 billion is a very modest recommendation. We have not embraced that recommendation at the present time. The urging of the President of the United States is that before we move out from this Congress, we ought to be about the business of addressing that particular education issue.

Education is of such importance to every family in this country. It is of essential importance to every young person in this Nation, and it is a matter of enormous importance in terms of our country being able to compete in a global economy.

So the urgency of these proposals—one is to have a reduced class size and the second is to be able to modernize our classrooms—is enormously important. If we look at the amount of resources we devote to education in the budget of this country, we will find that it is only about 2 percent. It is only 2 percent of our national budget.

This is the 1998 Federal budget, and you can see from this pie chart the allocations of resources. Education is only 2 percent. If you ask people what percent of a dollar they believe goes to education, I think most Americans would think 10 or 12 percent, or 10 or 12 cents should be going to education. If you ask them what they believe they would like to be the number, it would be even higher.

We are only talking about 2 percent. So the real question is, in a time now when our appropriators and negotiators are meeting in resection on what will be a $1.7 billion budget, will we be able to find the resources to provide for the reduced class size for K through 3—$1 billion for fiscal 1999, $7 billion over the next 5 years—to see a dramatic reduction in the number of students per class in K through 3, that is what we are trying to do, and to modernize our school buildings all across this country.

Those are two priorities. I must say I strongly agree with my colleagues with Senator Daschle, and with Leader Gephardt who said we should not leave this city until we respond in a positive way to make sure those requirements are fulfilled, because there is nothing that is more important than meeting the needs of the children of this country.

Finally, Mr. President, I think this is important to do for a number of reasons. Every day that children go into those school systems and they go into dilapidated schools, they go into old schools, they go to classrooms with windows broken or with poor heating or poor air-conditioning in the course of the early fall and the late spring and early summer in many other parts of this country, when the pipes are leaking, or where some schools are actually closed in the wintertime because of the failure of the heating system, we are sending a very powerful message to those children.
our children and we ought to be about the business of looking out for the interests of these children to make sure they are going to have a well-qualified teacher in every classroom in this country. That ought to be our hope, that ought to be our challenge, and that ought to be an effort made in the local community. It ought to be an effort made at the State level. But we should not say we are going to abandon our national interest by saying we are not going to interfere if there are inadequate capabilities, or an inability, which is too often the case, to help and assist local communities, particularly when so many local communities such as we have seen in the recent times in Chicago and many other communities—my own city of Boston—are making this extraordinary effort to enhance the academic achievement for the children of this country and in those communities.

We ought to say we will be a partner with you, we are willing to be a partner with the local community, we are willing be a partner with the State, and we are going to be a partner in helping to modernize our facilities. Otherwise, let us increase the number of students in our schools, let us enhance the quality of those teachers to make sure we are going to have good, qualified teachers in every classroom. Let’s take the number of students in those classrooms will be such that the teacher is going to be able to identify and spend some moments with each child in that classroom. That is the hope and desire of the teachers who have committed themselves to excellence, to trying to enhance that academic achievement and accomplishment. Let’s be a partner with the local communities and the States that are embarking on that effort.

Let us, as we are going through the final days now—let’s not leave town. Let’s say today we will take whatever is served up to us in the budget. Let us say education is important. We can go about the business of trying to make a difference in the classrooms and in the quality of the people who will be in those classrooms. Let us resolve that we will do that before we leave this town. That is, I think, an important responsibility that we have. We should not fail our children.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. Roberts). The Senator from Minnesota.

DOMESTIC VIOLENCE AWARENESS MONTH

Mr. GRAMS. Mr. President, I rise today to recognize the work of domestic violence shelters and centers in my home state of Minnesota. As my colleagues may know, October is recognized as “National Domestic Violence Awareness Month.” This is a time to strengthen our resolve to end domestic violence and sexual assault. More importantly, it is a time to remember those who have suffered and died as a result of these terrible crimes.

I am very concerned about the number of domestic violence incidents in our society. Americans should not have to live in fear of being abused by anyone, let alone a family member.

In my view, community-based domestic violence shelters and centers should be commended for their support for victims of physical, emotional, and sexual abuse. Their efforts to provide services and assistance to battered women and children have helped families and communities escape domestic violence.

I ask unanimous consent the names of these Minnesota organizations be printed in the RECORD.

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

Advocates For Family Peace.
African American Family Services.
Aitkin County Advocates Against Domestic Abuse.
Alexandria House.
Anishinabe Circle of Peace.
Anne Pierce Rogers Home.
Asian Women United of Minnesota.
B. Robert Lewis Intervention Project.
B. Robert Lewis House Shelter.
Battered Women’s Legal Advocacy Project.
Big Stone County Outreach.
Bois Forte Battered Women’s Program.
Breaking Free.
Brian Coyle Community Center.
Brown County Victim Services.
Casa de Esperanza.
Cass County Family Safety Network.
Center for Family Crisis.
Chisago County Victim’s Assistance Program.
Citizen’s Council Victim Services.
Committee Against Domestic Abuse.
Community University Health Care Center.
Cornerstone Advocacy Services.
Crime Victims Resource Center.
Division of Indian Work.
Domestic Violence Abuse Advocates of Wabasha County.
Domestic Abuse Intervention Project.
Domestic Abuse Project.
Domestic Abuse Project of Goodhue County.
Eastside Neighborhood Service.
Family Help Center.
Family Safety Network.
Family Services.
Family Violence Intervention Project.
Family Violence Network.
Family Violence Program.
Fillmore Family Resources, Inc.
Fond du Lac Reservation Business Committee.
Forest Lake Area New Beginnings.
Freeborn County Victim’s Crisis Center.
Friends Against Abuse.
Gender Violence Institute.
Grand Portage Reservation “Wil Dooka Wada”.
Grant County Outreach.
Hands of Hope Resource Center.
Hands of Hope.
Harriet Kubman Center, Inc.
Harriet Kubman Pilot City Outreach Program.
Headwaters Intervention Center, Inc.
Health Start.
Health System Minnesota Advocare.
Hennepin County Legal Advocacy Project.
Hill Home.
Home Free Domestic Assault Intervention Project.
Home Free Shelter—Missions, Inc.
Houston County Mediation & Victims Services.
Houston County Women’s Resource.
Lakes Crisis Center.
Leech Lake Family Violence Prevention/ Intervention Program.
LeSuer/Sibley Violence Project.
Listening Ear Crisis Center.
Lyon County Violence Intervention Project.
McLeod Alliance for Victims of Domestic Violence, Inc.
Methodist Hospital Advocare Program.
Midway Family Service and Abuse Center.
Migrant Health Service.
Mr. President, Minnesotans will have the opportunity this month to participate in a variety of National Domestic Violence Awareness Month initiatives. Throughout October, citizens will raise public awareness through candlelight vigils, rallies, and marches throughout our communities.

One of the more creative programs will be an art exhibit honoring 30 Minnesoplis public high school students who are finalists in the “Speak Up” domestic violence awareness poster contest.

This initiative, co-sponsored by the Harriet Tubman Center and Intermedia Arts in Minneapolis, will encourage students to increase public awareness and prevention of family violence. The competition will award scholarships to ten individuals who present various domestic violence themes in their artwork.

Next fall, these works will be part of the Annual Domestic Violence Art exhibit in the Eagan Senate Office Building sponsored by my colleague, Senator Paul Wellstone.

I am certain many Members of Congress will visit this exhibit to admire the important contributions of these young Minnesotans toward raising the consciousness of our communities about the issue of domestic abuse.

Domestic violence is not an insurmountable problem facing our society. We must work together to curb this problem over economic, cultural, and political boundaries.

Through the efforts of community groups, families, and law enforcement, Americans can take meaningful steps toward eradicating the presence of this crime in their daily lives.

PRINCIPLE, COURAGE, AND TAX CUTS

Mr. GRAMS. Mr. President, I want to take the remaining part of my time this morning to talk about a subject I have worked on for the 6 years I have been in Congress, and that is trying to raise the awareness of the issue of taxes in this country, that we are now taxed at an all-time high, and that Americans need and deserve some form of tax relief.

So, Mr. President, I wanted to take time to rise today to express my disappointment over the Senate’s failure to pass its own tax relief bill this year.

Fiscally, socially, morally, this is a tremendous mistake, and I believe my colleagues are wrong. I am equally disappointed at President Clinton’s threat to veto this important legislation that had passed. It is the same case as last year when, in the State of Virginia, when then-candidate for Governor Gilmore was pleading a tax cut of his own. The President said at that time that Virginia would be “selfish” to vote for tax relief. This year he says “to squander money on a tax cut”—again, that is how President

Mille Lacs Women’s Project.
Minneapolis Intervention Project.
Mujeres Unidas/Los Ninos.
North Memorial Women’s Center.
North Shore Horizons Women’s Resource Center.
Northwoods Coalition for Battered Women.
Otter/Tail County Crisis Center.
Phyllis Wheatley Community Center.
Pullsberry Neighborhood Services.
 Pope County Outreach PRIDE (Women Used In Prostitution).
Project P.E.A.C.E.
Ramsey Intervention Project.
Range Women’s Advocates.
Rape and Abuse Crisis Center.
Refuge.
Refuge East.
Refuge North.
Region IV Council on Domestic Violence.
Rivers of Hope—Buffalo.
Rivers of Hope—Elk River.
Safe Journey.
SAPE, Inc.
St. Cloud Intervention Project.
St. Paul Intervention Project.
Shelter House/Woodland Centers.
Sojourner Project.
Sojourner Project Intervention.
Southern Minnesota Crisis Support Center.
Southern Valley Alliance for Battered Women.
Southern Valley Intervention Project.
Southwest Crisis Center.
Stevens County Outreach.
Traverse County Outreach.
Tuning Point for Victims of Domestic Abuse.
Unity/Waite House.
Victim’s Crisis Center.
Violence Intervention Project (CADA).
Violence Intervention Project—Ada.
Violence Intervention Project—Crookston.
Violence Intervention Project—Hallock.
Violence Intervention Project—Rouseau.
Violence Intervention Project—Thief River Falls.
Waseca Area Violence Intervention Project.
Washington County Intervention Services.
Will County Outreach.
W.I.N.D.O.W
Wilder Community Assistance Program.
Wilder Domestic Abuse Program.
Winona Domestic Assault Intervention Project.
Women House.
Woman House advocates at St. Cloud hospital.
WomanKind (Fairview Ridges).
WomanKind (Fairview Southdale).
WomanKind (Fairview University).
WomanSafe.
Woman Alive Crisis Center “E quy Be Mah De See Win”
Women of Nations Eagles’ Nest Shelter.
Women of Nations Community Advocacy Project.
Women’s Advocates.
Women’s Center, Inc.
Women’s Center of Mid-Minnesota.
Women’s Coalition.
Women’s Resource Center of Steele Country.
Women’s Resource Center.
WRAP of Cottonwood County.
WRAP of Lincoln County.
WRAP of Redwood Co.
Women’s Shelter.
Women’s Shelter Intervention Project.
Womenaspace.
Yellow Medicine Women’s Center.
African American Family Service.
Battered Women’s Programs.
Battered Women’s Justice Project.
Battered Women’s Legal Advocacy Project.
Black, Indian, Hispanic & Asian Women In Action.
BrotherPeace.
Minnesota Coalition for Battered Women.
Minnesota Indian Women’s Resource Center.
Mr. President, we should also note that this year marks the fourth anniversary of the Violence Against Women Act. Through the responsible grants to State governments for prevention programs and other services, and the new national domestic abuse hotline, the Violence Against Women Act has contributed significantly toward protecting individuals from sexual offenses and domestic abuse. I am proud to have supported this landmark legislation as a member of the House of Representatives during the 103rd Congress.

Since the passage of the Violence Against Women Act, funding provided for these programs has led to the further development of policies to prevent and respond to domestic abuse incidents. This includes specialized domestic violence court advocates who obtain protection orders, in conjunction with greater support to enhance the ability of prosecutors and law enforcement to punish those who commit these crimes.

Despite these important achievements, the number of siblings, spouses, and children subjected to domestic abuse remains too high. Regrettably, most victims of domestic violence are women.

According to the Minnesota Coalition for Battered Women, 210 Minnesota women died from domestic abuse between 1988 and 1997. Sadly, this loss of life underscores the importance of increasing public awareness regarding domestic violence and the community-based organizations that are working to prevent others from falling victim to this violence.

Mr. President, domestic abuse is not limited to the privacy of households. In many cases of businesses, battered individuals are subjected to emotional abuse in the form of threatening phone calls and harassment.

Fortunately, companies have begun to recognize that employees who are subject to domestic violence at home are more likely to be absent from work and less productive at their jobs.

In fact, a recent survey of corporate senior executives by Roper Starch Worldwide, Inc. found that: Fifty-seven percent of those surveyed believe that domestic violence is a major problem in society; thirty-three percent feel that domestic abuse had a negative impact on their bottom lines; and four out of ten executives surveyed were personally aware of employees and other individuals affected by domestic violence.

I commend efforts by private sector employers who have responded to this problem by establishing Employee Assistance Programs and other services that will safely protect employees who have become domestic violence victims.
Clinton is describing our attempt this year to let working Americans keep more of their money—‘‘to squander money on a tax cut.’’

Unfortunately, there is a pattern here, and apparently neither President Clinton nor Washington has changed their mind. Both want as much money as they can get from the taxpayers, so they can spend it the way they think is best.

According to Webster’s Dictionary, the definition of ‘‘squander’’ is ‘‘to spend extravagantly or foolishly.’’ I say to President Clinton that I am shocked that you actually believe taxpayers squander their salaries in this way and that only Washington can spend the money wisely. With such highly placed disregard for the fiscal abilities of the American people, I believe it is no wonder that Washington has been unwilling to give the taxpayers more control over their own dollars.

Let me focus first this morning, Mr. President, on the budget surplus. In a recent series of high-profile celebrations, folks here in Washington could hardly wait to rush to the cameras to claim credit for the $70 billion budget surplus right when they slap their own backs with their hands. Politicians have been humungous ditties all around this town while approving big-ticket spending items right and left. Meanwhile, those same politicians pontificated, squandering the surplus to ‘‘save Social Security first.’’

The truth is, the White House didn’t generate this surplus, nor did the U.S. House or the Senate. The politicians have no rightful claim to the surplus. Washington should not be allowed to sit around and dream up ways to spend even more money because a surplus has arrived. Working Americans are responsible for propelling our economy forward and generating this budget surplus. They deserve to get it back as tax relief. There should be no debate. Taxpayers have overpaid, and, like any other time a person overpays, they ought to get it back. If you go into a store and pay too much for an item, you expect to get the money back. But somehow in Washington, if you overpay, that is just too bad, Washington wants to pocket your money.

The surplus is the product of the recent revenue surge—a surge, I believe, generated directly by increased productivity and increased individual income tax payments, including the payment of capital gains taxes as investors took advantage of the lower capital gains rate—again, proving that reducing the tax rates can actually increase revenues, because the economy will grow. Very little of the surplus comes from policy changes, however, related to deficit reduction.

On the other hand, there are others in this Chamber who claim there is no surplus, that if we subtract the dollars Washington has routinely raided from the Social Security trust fund, the Government is still in the red. Therefore, they oppose using the unified budget surplus for any kind of tax relief.

Mr. President, they are right on the facts, but I believe they are dead wrong on the solution. It is a classic mistake. The spenders are the ones who have exhausted every penny of the Social Security surplus. They have already exhausted every penny of the Social Security surplus on other Government programs. The taxpayers shouldn’t be denied relief from a stifling tax burden just because Washington has managed to juggle the Nation’s bank accounts.

I urge my colleagues to review the CBO’s ‘‘August Economic and Budget Outlook,’’ which shows precisely where revenues will come from in the next 10 years. The data shows that the largest share of the projected budget surplus goes directly from increased productivity and increased individual income taxes paid by the taxpayers, not the FICA taxes. In 1998, individual income, corporate, and estate taxes make up nearly 80 percent of total tax revenue growth, while the share of FICA tax is about 20 percent. Economists expected to grow by $723 billion, or 60 percent, over the next 10 years.

What I am saying, Mr. President, is that the taxpayers generated the surplus, outside the money earmarked for Social Security. Now the Government has no right to absorb it. It is only moral and fair to return at least a part of it to the taxpayers.

If we don’t return at least a portion of the money to the taxpayers, and do it soon, Washington is going to spend it, leaving nothing then for tax relief for the vitally important task of actually trying to preserve and save Social Security. Such spending will only enhance theolly from income taxes paid by the taxpayers, not the FICA taxes. In 1998, individual income, corporate, and estate taxes make up nearly 80 percent of total tax revenue growth, while the share of FICA tax is about 20 percent. Economists expected to grow by $723 billion, or 60 percent, over the next 10 years.

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Mr. President, when it comes to federal spending, Washington rarely asks how the American taxpayers can afford it or if they have the earned benefits taxed.

If the 105th Congress was supposed to be about cutting taxes and forever reforming the tax system—and I believe that was our mandate—the 105th Congress did not complete the job.

Our progress has fizzled not because our efforts have lost the support of the people—in fact, two thirds of the American people supported tax relief during the 1996 elections, and broad tax relief still enjoys overwhelming support today—but because some in Congress have lost their backbones. They have lost the courage to make a stand on principle and not abandon their moral compass in the face of resistance.

In too many instances, this Congress has become a willing collaborator of President Clinton’s tax-and-spend polices. We have helped to build a bigger, more expensive government, and in doing so have abandoned our promise of tax relief for working Americans.

Mr. President, each time Congress makes a promise to the taxpayers—and then deserts them—Congress comforts itself by saying it would come back next year and enact an even larger tax cut. This is self-deceiving at best.

If we do not take a stand today, what is going to happen to make us more courageous a year from now? Besides, each year we wait, the Government takes an ever-greater bite of the earnings of working Americans and the Government gets bigger and becomes harder to trim in the future.

Another point I would like to make, Mr. President, is that a tax cut is not spending. It is a convoluted tax-keeping practice of Washington would we consider a cut in tax rates to be spending. The reason is simple: first, it is the taxpayers’ money that supports and keeps the Government running; second, tax relief not only ensures a healthy and strong economy, but also generates more revenues for the Government.

In a recent study, economists at the Institute for Policy Innovation concluded that only a tax cut—convoluted tax-keeping practices of Washington would we consider a cut in tax rates to be spending. The reason is simple: first, it is the taxpayers’ money that supports and keeps the Government running; second, tax relief not only ensures a healthy and strong economy, but also generates more revenues for the Government.

Mr. President, when it comes to federal spending, Washington rarely asks how the American taxpayers can afford to give up more of their income to the government, and how such excessive spending will affect a working family’s budget and finances. Equally upsetting is the fact that when it comes to tax relief, Washington is always reluctant to act.

Oh, they say it is easy to give an election year tax cut. That is impossible around here. It is hard to get a tax cut. It is easy to spend; it is very hard to give tax relief. Congress even goes so far as to convince tax cut advocates to pay for any tax relief via Washington’s PAYGO rule. That is a rule that requires increasing taxes on some or lowering entitlement benefits in order to give tax relief to others. Nothing is more ridiculous than the requirement of the PAYGO rule. We must repeal it so we can do the job of shrinking the size of the Government and let working families keep more of the money, the money they earn in order to spend it on their priorities—not Washington priorities.

One major reason for the failure of this year’s tax relief bill is that Washington’s spin doctors took full advantage of Americans’ anxiety about Social Security crisis or not, Washington has spent, and will continue to spend, surplus dollars whenever it can for its pet programs.

Since 1983, Washington has raided more than $700 billion from the trust funds for non-Social Security programs, and Congress approved that spending every time. In the next 5 years, the Federal Government will raid another $600 billion from the Social Security trust funds. Those politicians who insist on using the surplus for Social Security have voted for most, if not all, of those spending bills, and so it is those politicians who in the last 15 years have stripped the trust funds of any surplus.

Mr. President, despite the rhetoric about saving Social Security, few have come up with a concrete plan to save it. The only game in town is to raid another $600 billion from the Social Security trust funds. Those politicians who insist on using the surplus for Social Security have voted for most, if not all, of those spending bills, and so it is those politicians who in the last 15 years have stripped the trust funds of any surplus.

Mr. President, despite the rhetoric about saving Social Security, few have come up with a concrete plan to save it. The only game in town is to raid another $600 billion from the Social Security trust funds. That means Washington can legally use the money to fund its favorite non-Social Security programs, rendering these assets’ little more than Treasury IOUs. Unless we change the law, Washington will continue to abuse Social Security until it goes broke.

I agree that reforming Social Security to ensure its solvency is vitally important. Any projected budget surplus the Valles Caldera Preservation Act for purposes of introducing the bill.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN FOR INTRODUCTION OF A BILL

Mr. ENZI. Mr. President, I ask unanimous consent that the Senators from Mexico, Mr. DOMENICI and Mr. BINGMAN, have until 6 p.m. tonight to file legislation, the Valles Caldera Preservation Act for purposes of introducing the bill.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

OSHA LEGISLATION DURING THE 105TH CONGRESS

Mr. ENZI. Mr. President, I can think of few issues that are more important to the average American than the safety and health of our Nation’s workers. During the last 2 years, Congress stepped up to the plate and confronted this important issue head-on. The end result was three separate bills becoming law that amended the Occupational Safety and Health Act of 1970. Until this year, in 28 years, the act was amended one time—in 1990—and that was to increase fines. The American workplace has changed quite a bit over the last three decades and I’m pleased the progress is now changing, too.

During the first session of the 105th Congress, I introduced a comprehensive piece of legislation with the support of...
Senator GREGG and FRIST and 20 other Senate cosponsors, entitled the Safety Advancement for Employees Act or SAFE Act. At the same time, my good friend, Jim TALENT, introduced similar legislation in the House which received strong, bipartisan support—a rarity for such a specialized issue.

It is important to understand that both the Senate and House versions did not attempt to reinvent OSHA’s wheel, just change its tires. Treading water for 27 years, OSHA has never truly attempted to encourage employers and employees in their efforts to create safe and healthful workplaces. Instead, OSHA chose to operate according to a command and control mentality. This approach has lead to burdensome and often incomprehensible regulations which do not relate to worker safety and health and are, quite often, only sporadically enforced.

The AFL-CIO publically acknowledged that only 2,450 State and Federal inspectors regulating 6.2 million American worksites, an employer can expect to see an inspector once every 167 years. In addition to this enormous time lapse, the sheer diversity of safety and health concerns stemming from restaurants to homes across America prohibits an inspector from fully understanding each worker's needs and concerns.

OSHA seems more concerned about collecting its first year budget than about improving worker safety. OSHA proposes over $140 million in fines to be paid by the regulated public each year—over $100 million of that total gets assessed. Even more troubling is that OSHA’s existing voluntary and cooperative compliance programs impact a mere fraction of worksites and consume only a small share of the agency’s annual budget. Despite OSHA’s claim that it is “putting a lot of resources into compliance assistance and partnering,” only 22 percent of OSHA’s 1997 fiscal appropriation was spent on federal and state plan compliance assistance. It is difficult for anyone to say that current initiatives are having an impact on the number of workplace fatalities and injuries when OSHA spends so little of its annual funds on preventive measures.

It is important to point out that the SAFE Act would not have dismantled OSHA’s enforcement capabilities. It was the belief that OSHA was not using its enforcement resources on those employers truly need limited attention. America would be better served by an OSHA that manages its resources more wisely and the SAFE Act was crafted to strike that balance.

In addition to establishing OSHA qualified third party consultations, the SAFE Act included additional voluntary and technical compliance initiatives. By deeming their worksites ‘safe’ for their employees. I firmly believe that it is this approach that will ultimately bring a greater number of workplaces into compliance with existing law and help prevent workplace deaths from being injured or killed on the job.

The SAFE Act would ensure that federal occupational safety and health standards are based on sound, scientific data that all vested parties can live with. By injecting independent review into the rule-making process, future regulations would reflect greater clarity and simplicity—helping businesses to better understand what they are required to do. I also believe that scientific peer review will help specifically operationalize OSHA’s rules by eliminating conflicts of interest. Under the present system, draft rules can idle in the process for more than 15 years, because no one agrees on the rule’s scientific validity. At the same time, annual funding for control continues to be channeled toward research at the expense of the taxpayer. That must change.

Last October, we marked up the SAFE Act on the Senate Committee on Labor and Human Resources and favorably reported the bill out of committee. In the following months, I continued to work with Senators KENNEDY, DOOD, WELLSTONE, and REED—as well as with Assistant Secretary of Labor, Charles Jeffress, to find common ground that would result in a bill that would pass the House and Senate and be signed by the President into law. A number of good suggestions were made to improve the bill, but retaining the floor time quickly became an insurmountable obstacle.

I was pleased to have the opportunity to testify at a hearing chaired by Chairman TALENT in the House Small Business Committee. As the House author of the SAFE Act, Representative TALENT understood the importance of third party consultations. He invited specialists in occupational safety and health to share their candid opinions of the OSHA. Having experienced and testified firsthand, I was pleased that safety and health professionals—those who have the most education, training, and field experience in abating occupational hazards—embraced this bill so enthusiastically.

In both Chambers, the SAFE Act gained considerable momentum after its introduction. The bill stuck to a theme—advancing safety and health in the workplace. Maintaining this spirit of cooperation, it is my intention to move forward well into the 106th Congress. Until each of the SAFE Act’s provisions become law, this debate is far from over.

Despite the Senate’s inability to complete its consideration of the SAFE Act, legislative successes were still abundant. Last June, I was pleased to have had the opportunity to pass two bills in the Senate that were authored in the legislative process. The first was the Occupational Safety and Health Administration Compliance Assistance Authorization Act, and the other was H.R. 2677, which eliminated the imposition of quotas in the context of OSHA’s enforcement activities. Both bills are now law and have already been implemented by OSHA.

Following the same lines as the SAFE Act, these two bills were written to increase the joint cooperation of employers, employees, and OSHA in the effort to ensure safe and healthful working conditions. It will never be productive to threaten employers with fines for non-compliance when millions of safety conscious employers don’t know how they are supposed to comply. Nor is it effective to burden employers with more compliance materials than they can possibly digest or understand, many of which have no application to their business. To achieve a new, cooperative approach, the vast majority of employers concerned about worker safety and health must have compliance assistance programs made more accessible to them and more related to their actual operation. Passage of H.R. 2664 was a good, first step in providing employers just that.

H.R. 2677 eliminated enforcement quotas for OSHA compliance inspectors. This bill prohibits OSHA from establishing a specific number of citations issued, or the amount of penalties collected. I believe that inspectors must not face institutional pressure to issue citations or collect fines, but rather they should work to identify potential hazards and assist the employer in abating them. OSHA’s success must depend upon whether the nation’s workforce is safer and healthier, and not upon meeting or surpassing goals for inspections, citations, or penalties.

In July, both the Senate Committee on Labor and Human Resources and full Senate unanimously passed S. 2112, the Postal Employees Safety Enhancement Act. The bill was written to bring the Postal Service and its more than 800,000 employees under the full jurisdiction of OSHA. The measure must be implemented by its own rules. Although all federal agencies must comply with the 1970 Occupational Safety and Health statute, they are not required to pay penalties issued to them by OSHA. The lack of any enforcement tool renders compliance requirements for the public sector ineffective at best.

My first look at this issue occurred when Yellowstone National Park was cited by OSHA last February for 600 violations of some serious. One of those serious violations was the park’s failure to report an employee’s death to OSHA. In fact, Yellowstone posted five employee deaths in the past three
and one-half years. Although there are these and other serious problems noted in the park's safety and health record, overall federal injury, illness, lost work-time, fatality and workers' compensation rates show the United States Postal Service leading the pack in almost every category. Postal workers injuries and illnesses represent 42 percent of the government's lost-time cases. From 1992 to 1997, the Postal Service paid an annual average of $505 million in worker-compensation costs and its annual contribution accounted for almost one-third of the federal program's $1.8 billion price tag. These alarming statistics made my decision to slowly bring the federal government into compliance rather easy.

In 1982, the Postal Service became fiscally self-sufficient—depending entirely on market-driven revenues rather than taxpayer dollars. They should be congratulated for that. Today, the United Service Postal Service has already over 43 percent of the world's mail—delivering more mail in one week than Federal Express and the United Parcel Service combined deliver in an entire year. With annual profits that exceed $1.5 billion, the Postal Service was a private company, it would be the 9th largest business in the United States and 29th in the entire world.

Realistically speaking, the Postal Service is hardly a federal agency. It's better characterized as a self-sufficient, quasi-government entity. It is the only federal agency where its employees can collectively bargain under the 1935 National Labor Relations Act. It's the only federal agency that posts annual profits exceeding $1.5 billion. In fact, the Postal Service exhibits almost every characteristic of a private business, yet it never had to fully comply with federal occupational safety and health law—until now. Last month, I introduced the Enzi amendment to the Democratic Employee Safety and Health Enhancement Act in the House and sent it on to the President.

Since the bill's enactment, I learned that OSHA and the National Park Service, have entered into safety pact. I commend both agencies for this commitment to workplace safety and health. It is my understanding that other federal agencies could do the same. Such agreements with OSHA represent a way to introduce third party consultations as a means of bringing a greater number of federal worksites into compliance.

The enactment of S. 2112 and the previous two bills marks the first significant step toward modernizing the nation's 28-year-old occupational safety and health law. I believe that these incremental accomplishments were achieved because this Congress is committed to improving conditions for America's workers. We have a long road ahead of us and that road, so far, had been too slow to save American lives. This debate will not end when Congress completes its work this year. I fully intent to press forward—well into the 106th Congress. More hearings on this important issue are necessary. We need a bipartisan effort—making headway in every area we can reach agreement. We need to dedicate some headway in every area we can reach agreement. This will not happen by accident! Good legislation will ultimately be achieved and increased compliance will undoubtedly result if we simply remain committed to it.

I want to conclude my remarks by thanking members and staff for making occupational safety and health such a successful issue during the last two years. I want to thank my House colleague and friend Jim Talent, his impressive knowledge of labor law, complemented by his labor counsel, Jennifer Woodbury, helped bring the SAFE Act to the attention of all House members. I look forward to work on many more bills with Jim Talent in the coming period. I would like to thank Congressmen Ballenger, Greenwood, and McHugh and their staff. They, too, should be complimented for their efforts. Senators Gregg, Frist, and Jeffords also deserve tremendous thanks. Their staff spent many days working under OSHA legislation. Finally, I want to thank my Democratic colleagues on the Senate Labor Committee. Senator Kennedy was especially considerate in listening to my concerns and I want to extend my appreciation to him and his staff. I am confident that this relationship will pick up next year where it left off.

PASSAGE OF COALBED METHANE LEGISLATION

Mr. ENZI. Mr. President, I want to take a minute before the Senate adjourns to thank a few Members who have been very helpful on an issue of critical importance to my state.

Yesterday evening, the Senate adopted, by unanimous consent, S. 2500, a bill to preserve the sanctity of existing leases and contracts for production of methane gas from coal beds. An affirmative U.S. Government policy has been the legal basis for these contracts for nearly eighteen years and it was the intent of this bill to preserve the existing rights of all the parties in light of legal uncertainties cast by a July 20, 1998, 10th Circuit Court of Appeals decision.

On September 18, I introduced the bill to protect these people, with my colleagues. Senator Jeff Bingaman of New Mexico and Senator Craig Thomas of Wyoming. The affected people live all across America, but most of the actual lands are in the western states, primarily New Mexico, Utah, Colorado, Wyoming, and Montana.

The circumstances faced by interest owners would be severe. Personal and corporate bankruptcies would have led to local bank involvements and the multiplying effect on unemployment and loss of confidence in western states would have been devastating. In this time when Congress is working to offer a $4-7 billion aid package to provide certainty for crop farmers, I am pleased that we have been able to reach agreement to provide certainty for those people in the oil patch—and we did it without spending a single federal dime.

The 1998 Circuit Court decision has clouded all existing lease and royalty agreements for production of coal out of the oil and gas estate. This uncertainly jeopardizes the expected income of all royalty owners and the planned investment and development of all existing lessees.

The legislation we passed yesterday addresses that problem faced by owners and lessees by preserving the policy status quo for valid contracts in effect on or before the date of enactment. The legislation applies only to leases and contracts for "coalbed methane" production out of federally-owned coal. It does not apply to leases and contracts for gas production out of coal that has been conveyed, restored, or transferred to a third party, including to a federally recognized Indian tribe.

It is important to note that many older leases and contracts for gas production on coal lands were negotiated prior to "coalbed methane" becoming a part of the law. It is necessary to clarify that we do not mean to exclude those valid leases and contracts that convey rights to explore for, extract and sell "natural gas" from applicable lands simply because they do not include the term "coalbed methane." That is a possible ambiguity that arose very late in the process, after the time when we could have reasonably perfected the bill, but it is important to note because before this year, "coalbed methane" has been considered in the bill as it was to be part of it. We chose the term "coalbed methane" because using the term "natural gas from the coalbed," left uncertainty about the gas rights in light of the 10th Circuit ruling. The Department of Interior suggested we use "coalbed methane" so as to be very clear regardless of whether the Courts rule "coalbed methane" to be part of the coal estate or part of the natural gas estate in the future.

While the bill has yet to be completed, the House, I want to thank some of the members who have helped us craft legislation that addresses what we intended to cover. Without any of them, we would not have been able to go forward. Because of very limited time we had to expedite the process, and we could not have done it without an enormous amount of help. Senator Campbell, and his Indian Affairs Committee staff, were supportive in working out the provisions covering the term. Senator Mukowski, and his Energy Committee staff, were helpful in working out the details of the bill and moving it through that Committee. Senator Bumpers, and his-
mittee staff, were very cooperative and provided many helpful suggestions.

The Department of Interior Solicitor’s office provided good counsel and worked with us through the process. And the people out in the field, the coal companies who have valid concerns about their existing and future leases to main federal coal, were great to work with. Nothing in this bill should be construed to limit their ability to mine federal coal under valid leases, nor should anything be construed to expand their liabilities to coaled methane owners covered by the bill. The gas producers and land owners really came together and proposed reasonable solutions to solve the problems. Without their cooperative effort, this bill would not have happened.

So again, my appreciation goes out to all the people who helped us remove the possibility of devastating situation—extensive private property takings, retroactive liabilities, and mountains of combative litigation. On behalf of thousands of Wyomingites, thank you.

Mr. President, I yield the floor.

ROLE OF THE SENATE SUBCOMMITTEE ON COMMUNICATIONS

Mr. LOTT. Mr. President, I want to take this time to recognize the important role and work of the Senate’s Subcommittee on Communications. This Congress and emphasize the challenges that lie ahead.

The communications world encompasses so many areas that personally touch the lives of practically every person in America—from the telephone to the television to the computer. The ways we interact is a fitting reflection of the fast times in which we live and the constant evolution of technologies. Traditional systems are changing. Options are expanding. Companies continue to shift gears and take the necessary risks to bring fruition of the landmark 1996 Telecommunications Act to the marketplace and to consumers.

Enacting policies to encourage, and not hinder, such activity is Congress’ challenge. Mr. President, I believe the members of this subcommittee are ready and willing to embrace that challenge.

I want to express my sincere gratitude to my colleague and friend, Senator Conrad Burns of Montana, for his yeoman’s work as chairman of the subcommittee during the course of this Congress. His guidance has been instrumental in bringing focus to the many issues that merit attention. His inclusive and enthusiastic approach has engaged all who work with him, and I appreciate that.

Mr. President, many contentious policy issues were considered by the subcommittee during the 106th, and consensus proved elusive. I am confident, though, that the stage has been set for several productive debates in the first session of the 106th—from Federal Communications Commission reauthorization, to international satellite privatization, to transition to digital, to competition issues, to Internet privacy and content.

Speaking of the Internet, let me take this opportunity to mention my deep admiration for the contributions made by retiring Senator Dan Coats in this area. Although not a member of the Commerce Committee, he has tirelessly advocated against the Internet becoming ‘‘controlled’’ by the government. We need to be very careful to ensure that the government doesn’t take control of the Internet. I applaud his efforts, and I hope we can incorporate these ideas in the new administration.

Mr. President, I appreciate the contributions of each of my subcommittee colleagues this Congress, and look forward to working with them next year in tackling some tough issues and ushering in a truly new era of communications.

NATIONAL BIBLE WEEK

Mr. LOTT. Mr. President, one of our country’s most important observances is National Bible Week sponsored by the National Bible Association. This year, as in the past, it will be observed by houses of worship and individuals of all faiths during the week in which Thanksgiving Day falls. That will be from Sunday, November 22 through Sunday, November 29.

It is my great and underserved honor to be this year’s congressional co-chair of that observance. In that capacity, I would like to recommend to all my colleagues, and to the American people, that, in this season of strife and division we look to National Bible Week as an opportunity to join together in prayerful reflection.

The German poet Heinrich Heine called the Bible “that great medicine chest the medicine chest the greatest cure for the worst ills of mankind. And he observed how—during the great fire that destroyed the Second Temple of ancient Israel—the Jewish people rushed to save, not the gold and silver vessels of sacrifice, not the jeweled breastplate of the High Priest, but their Scriptures. For the Word of God was the greatest treasure they had.

It remains our greatest treasure today. The lessons it teaches, and the formulas it commands, are the foundation on which a free people build self-government. In that sense, the Bible is the charter of our liberties. Daniel Webster put it this way: “If we abide by the principles taught by the Bible, our country will go on prospering.”

That has never been a partisan sentiment, and neither should it be so today. Two great political rivals of the early twentieth century, both of whom achieved the Presidency and attained world leadership, agreed on this one point.

Teddy Roosevelt said, “A thorough knowledge of the Bible is worth more than a college education.” And Woodrow Wilson, a university president at Princeton before reaching the White House, counselled, “When you have read the Bible, you will know it is the word of God, because you will have found in it the key to your own heart, your own happiness and your own duty.”

Here in the Senate, as in the House of Representatives, there are several small Bible study groups. Members of all faiths regularly come together, away from the public spotlight, to learn from one another and seek inspiration from sacred Scripture.

For my part, I find in those sessions both enlightenment and challenge. For any time we read the Bible with an open heart, we may find ourselves falling short, in some way, of the standard it sets for us and the promise it offers us.

In that way, reading the Bible can be like a spiritual work-out. And if, in the process, we feel the spiritual equivalents of a few sore muscles, then we can remember the saying, “No pain, no gain.” And the gain that Scripture offers lasts a lifetime—and even longer.

For that reason, it is especially appropriate that Thanksgiving Day coincides with National Bible Week, for the Bible itself is something for which we should give thanks, on that day and every day.

TITLE BRANDING LEGISLATION

Mr. CAMPBELL. Today I express my appreciation to the majority leader, Senator Ford, Senator Goetz, and Senator McCain for their hard work and efforts on S. 852, the National Salvage Motor Vehicle Consumer Protection Act. I believe S. 852 will deter automobile theft and protect consumers by providing them with notice of severely damaged vehicles. I would like to emphasize one provision contained in the bill. It is my understanding that the process of reducing salvage and nonrepairable vehicles to parts cannot begin before receipt of a salvage title, nonrepairable vehicle certificate, or other appropriate ownership documentation under state law. If a vehicle could be dismantled prior to the receipt of the appropriate ownership documents, then the parts from a severely damaged vehicle could skirt the titling system which this bill has put in place to deter automobile theft.

Mr. LOTT. Yes, that is correct. A vehicle that would qualify as a nonrepairable or as salvage vehicle cannot be taken apart for its parts before appropriate ownership documentation has been received for that vehicle.

Mr. President, I appreciate that the Senator from Colorado has taken the time to address this important issue.

MEDICARE HOME HEALTH FAIR PAYMENT ACT OF 1998

Mr. HATCH. Mr. President, as we begin to wrap-up the 105th Congress,
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there remains one essential item of business which I strongly believe warrants Senate action before we adjourn for the year.

Over the past year, numerous concerns have been raised by home health care agency officials and Medicare beneficiaries over the new Medicare payment system established in the Balanced Budget Act of 1997.

As a strong home health care advocate in the Senate for virtually my entire career, I am well aware of the importance of home health care is for Medicare beneficiaries with acute needs such as recovering from joint replacements and chronic conditions such as heart failure.

Utahns have consistently told me they prefer to receive care in their homes rather than in institutional settings such as hospitals and nursing homes.

In fact, patients actually do better in their recovery while at home than in a nursing home or hospital. And, clearly, the costs associated with home care are far less than what is charged in an institutional setting.

As a member of the Finance Committee, which has jurisdiction over the Medicare program, I am also well aware of the impending financial crisis Medicare was facing last year. Home health care was the fastest growing component in Medicare.

Between 1989 and 1996, Medicare spending on home health care services rose from $2.5 billion to $16.8 billion. Concurrently, according to the GAO, the number of home health agencies grew from 5,700 in 1989 to more than 10,000 in 1997.

Indeed, home health care spending threatened to consume more and more of the limited Medicare dollars.

Last year, Congress was faced with an extraordinary and daunting task—namely, the financial survival of the Medicare program.

No less than President Clinton's own advisors who serve as his appointed Trustees for the Medicare Trust Fund warned Congress that absent immediate action Medicare Part A would be insolvent by the year 2001. I am especially mindful of the situation in my state of Utah where many of the beneficiaries throughout my state.

And, I note for my colleagues who have not had the pleasure of visiting the magnificent mountains, essentially is a rural state with population centers far apart.

So if you live in Panguitch or Vernal, and your home health agency closes its doors, what happens? If there is any other service option available.

Home health care is particularly vital in improving efforts to deliver health care in rural areas where quality, long term care has been deficient for too long.

As my colleagues recall last year, there was no disagreement on the need to move to the PPS. The home health care industry was supportive of the new system—and remains supportive to this day.

The problem is with moving to the PPS from the current cost-based payment system. Data which was not available to accurately develop the PPS would be needed before such a system could be put into place.

Accordingly, the IPS was proposed as a mechanism to provide HCFA was the necessary baseline information to develop the PPS.

As we now know, the IPS has resulted in numerous problems. Many home health agencies have closed and resulted in beneficiaries, particularly those with high-cost needs, to have difficulty in obtaining care.

I am especially mindful of the situation in my state of Utah where many of the patients who have asked me about the problem.

I have met with officials from Utah's home health agencies from around the state as well as with beneficiaries who depend on the services performed by these agencies.

Moreover, the Senate Small Business Committee held a hearing on July 15, 1998 on the impact of the IPS on small home health businesses. One of my constituents, Mr. Marty Hoelscher, CEO of Superior Home Care in Salt Lake City testified at the hearing. He stated:

The IPS provides a flat payment to agencies for each patient, regardless of the type of care the patient might require. What happens to the really sick patients? What happens to the agencies who don't turn their backs on them? In Utah, the patients of the 18 free standing agencies which have recently ceased operations are filling our emergency rooms, intensive care units, nursing homes, and hospices.

We have been working concertedly with my Senate colleagues to resolve these problems. For example, in July, I joined with 20 of my colleagues in the Senate on July 16, 1998 to cosponsor S. 2323, the "Home Health Access Preservation Act of 1998."

This legislation was designed to alleviate the problems created by the IPS, and specifically, to address the problems associated with the high costs of caring for the sickest patients and those who need care on a long term basis.

After Senator Grassley introduced S. 2323, it became evident that the budget neutrality provision—which was intended that some new spending—was requiring us to reallocate resources in a way that disadvantaged some home health providers in order to assist others.

Many members expressed concerns that because of the problems inherent in such a reallocation, we should just repeal the IPS totally. I was extremely sympathetic to those concerns, but unfortunately, the Congressional Budget Office advised us that such a repeal was very costly; in fact, it was so costly that a total repeal was clearly out of question if we are to maintain the balanced budget which is so important to our country.

I am pleased that as a result of several months work by the Chairman and ranking minority member of the Finance Committee, Senator Roth and Senator Moynihan along with those of us on the committee have developed the bipartisan proposal which is supported by the home health industry.

The legislation we are introducing today, while not a perfect measure, is a responsible bill that will improve problems inherent in the current law and which will work to the benefit of thousands of Americans who rely on very valuable home health care services.

Under this legislation, Senate action will be taken to improve the IPS. First, the bill will reduce the extreme variations in payment limits applicable to old agencies within states and across state lines.

The bill also provides for a reduction in the payment level differences between "old" and "new" agencies. Such provider distinctions exist nowhere else in the Medicare system and contribute to the arbitrary nature of the payment system for home health care services.

Moreover, the bill delays for one year the 15% across the board cut in payment limits for all agencies that was to...
take effect in October 1999. Home health agencies in my state tell me this is perhaps the most significant and important feature of the bill.

The bill further directs the Health Care Financing Administration to take all feasible steps necessary to minimize the delay in the implementation of the PPS. Specifically, HCFA will be required to accelerate data collection efforts necessary to develop the case-mix required to accelerate data collection efforts necessary to develop the case-mix system which is at the heart of the PPS model.

Mr. President, I am pleased to add my name as an original cosponsor to this vitally needed legislation.

As we are all too painfully aware, our budget rules require that any legislation such as this which proposes "new" Medicare spending be accompanied by a reduction in spending to offset the costs.

While I understand the need to maintain budget neutrality, I am concerned that the budget rules require that any legislation such as this which proposes "new" Medicare spending be accompanied by a reduction in spending to offset the costs.

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I don’t think that her op-ed or subsequent statements by the administration have put to rest legitimate questions—legitimate questions or concerns about what our policy is and where it is headed—not just our policy alone, I might add, but the policy of the United Nations itself, and the policy of our allies in Europe.

The fact of the matter is, in my judgment, the U.S. response and that of the Security Council to Saddam Hussein’s latest provocations are different in tone and substance from responses to earlier Iraqi provocations.

Three times in the last 11 months Saddam has launched increasingly bolder challenges to UNSCOM’s authority and work. In November, he refused to allow American inspectors to participate on the teams. Although that crisis ultimately was resolved through Russian intervention, the United States and Britain were resolving that the push the Security Council to respond strongly. In subsequent weeks, Saddam Hussein refused to grant UNSCOM access to Presidential palaces and other sensitive cites, kicked out the team that was led by Scott Ritter, charging at the time that he was a CIA spy, and threatened to expel all inspectors unless sanctions were removed by mid-May.

By February, the United States had an armada of forces positioned in the gulf, and administration officials from our President on down had declared our intention to use military force if necessary to reduce Iraq’s capacity to manufacture, stockpile or reconstitute its weapons of mass destruction, or to threaten its neighbors.

Ultimately diplomacy succeeded again. In a sense, it succeeded again. It averted the immediate crisis. One can certainly raise serious questions about how effective it was with respect to the longer-term choices we face. But certainly in the short term, Secretary General Kofi Annan successfully struck an agreement with Iraq to provide UNSCOM inspectors, accompanied by diplomatic representatives, full and unfeathered access to all sites. There is little doubt that this agreement would not have been concluded successfully without the Security Council’s strong calls for Iraqi compliance combined with the specter of the potential use of American force.

Saddam’s latest provocation, however, Mr. President, strikes at the heart of our policy, and at the capacity of UNSCOM to do its job effectively. As long as the U.N. inspectors are prevented, as they are, from undertaking random no-notice inspections, they will never be able to confirm the fundamentals of our policy. They will never be able to confirm what weapons Iraq has, what it is doing to what it has, or what it is doing to maintain its capability to produce weapons of mass destruction.

Yet, when confronted with what may be the most serious challenge to UNSCOM’s administration, response, and that of our allies and the United Nations, has been to assiduously avoid brandishing the sword and to make a concerted effort to downplay the offense to avoid confrontation at all costs, even if it means implicit and even explicit backing down on our stated position as well as that of the Security Council. That stated position is clear: We insist on access to the U.N. inspectors with unconditional and unfeathered access to all sites.

Secretary Albright may well be correct in arguing that this course helps keep the focus on Iraq’s defiance. It may well do that. But it is also true that the U.N.-imposed limits on UNSCOM operations, especially if they are at the behest of the United States, work completely to Saddam Hussein’s advantage.

They raise questions of the most serious nature about the preparedness of the international community to keep its own commitment to force Iraq to destroy its weapons of mass destruction, and the much larger question of our overall proliferation commitment itself. They undermine the credibility of the United States and the United Nations’ positions, and work with the Security Council’s demands to provide unconditional and unfeathered access to those inspectors. And, obviously, every single one of our colleagues ought to be deeply concerned about the fact that by keeping the inspectors out of the very places that Saddam Hussein wants to prevent them from entering, they substantially weaken UNSCOM’s ability to make any accurate determination of Iraq’s nuclear, chemical or biological weapons inventory or capability. And in so doing, they open the door for Iraq’s allies on the Security Council to waffle on the question of sanctions.

I recognize that the Security Council recently voted to keep the sanctions in place and to suspend the sanctions review process. But, Mr. President, notwithstanding that, the less than maximum international concern, and focus on the underlying fact that no inspections take place, the continuation of Iraq’s weapons of mass destruction program, and the fact that Saddam Hussein is in complete control of the inspection process and all of the U.N. requirements—that continues to be the real crisis. And Saddam Hussein continues to refuse to comply.

Since the end of the gulf war, the international community has sought to isolate and weaken Iraq through a dual policy of sanctions and weapons inspections. Or, as one administration official said, to put him in a “box.” In order to get the sanctions relief, Iraq has to eliminate its weapons of mass destruction and submit to inspections. But it has become painfully apparent over the last 11 months that there are deep divisions among Coalition partners—particularly among the Permanent 5 members over how to deal with Saddam Hussein’s aggressive efforts to break out of the box.

Russia, France, and China have consistently been more sympathetic to Iraq’s call for sanctions relief than the United States and Britain. We, on the other hand, have steadfastly insisted that sanctions remain in place until he complies. These differences over how to deal with Iraq reflect the fact that there is a superficial consensus, at best, among the Perm 5 on the degree to which Iraq poses a threat and the policy to be pursued with respect to Iraq’s weapons capability. For the United States and Britain, an Iraq equipped with nuclear, chemical or biological weapons under the leadership of Saddam Hussein is a threat that almost goes without description, although our current inclination is to call into question whether or not one needs to be reminded of some of that description. Both of these countries have demonstrated a willingness to expend men, material and money to curb that threat.

France, on the other hand, has long espoused non-economic and political relationships within the Arab world, and has had a different approach. Russia also has a working relationship with Iraq, and China, whose commitment to nuclear nonproliferation has been less than stellar, has a very different calculus that comes into play. There may be a threat and nonproliferation may be the obvious, most desirable goal, but whether any of these countries are legitimately prepared to sacrifice other interests to bring Iraq to heel remains questionable today, and is precisely part of the calculus that Saddam Hussein has used as he tweaks the Security Council and the international community simultaneously.

Given the difference of views within the Security Council, and no doubt the fears of our Arab allies, who are the potential targets of Iraqi aggression, it is really not surprising, or shouldn’t be to any of us, that the administration has privately tried to influence the inspection process in a way that might avoid confrontation while other efforts were being made to forge a consensus. But now it’s time to make a judgment about the failure to reinstate the inspection process and ask ourselves whether or not that will destroy the original “box” that the administration has defined as so essential to carrying out our policy.

Is it possible that there is a sufficient lack of consensus and a lack of will that will permit Saddam Hussein to exploit the differences among the members of the Security Council and to create a sufficient level of sanctions fatigue that we would in fact move further away from the policy we originally had?

To the extent that his efforts are successful, we will find ourselves increasingly isolated within the Security Council. In fact, it is already clear that some of our allies in the Security Council are very open to the Iraqi idea of a compromise today, and is precisely part of the calculus that Saddam Hussein has used as he tweaks the Security Council and the international community simultaneously.

Yet, when confronted with what may be the most serious challenge to UNSCOM’s administration, response, and that of our allies and the United Nations, has been to assiduously avoid brandishing the sword and
lead to a lifting of some if not all of the sanctions. I think the question needs to be asked as to how long we can sustain our insistence on the maintenance of sanctions if support for sanctions continues within the United Nations Security Council. If it is indeed true that support is eroding—and there are great indicators that, given the current lack of confrontation, it is true—then the question remains, How will our original policy be affected or in fact is our original policy in place?

In April, Secretary Albright stated that, "It took a threat of force to persuade Saddam Hussein to let the U.N. inspectors back in. We must maintain that threat if the inspectors are to do their jobs."

That was the policy in April. Whether the administration is still prepared to use force to compel Iraqi compliance is now an enormous question. The Secretary says it is, but the recent revelations are cause for concern about that.

In addition, it seems to me that there are clear questions about whether or not the international community at this point in time is as committed as it was previously to the question of keeping Iraq from developing that capacity to rob its neighbors of tranquility through its unilateral development of a secret weapon program.

In May, India and Pakistan, despite all of our exhortations to come to a consensus, clearly indicated their intention. In August, U.S. intelligence reports indicated that North Korea is building a secret underground nuclear facility, and last month North Korea tested a new 1,250-mile-range ballistic missile which landed in the Sea of Japan. Each and every one of these events raises the ante on international proliferation efforts and should cause the Senate and the Congress as a whole and the administration, in my judgment, to place far greater emphasis on our other nonproliferation efforts in- cluding completion of our talks with Russia and the ultimate ratification of the START II treaty by the Duma.

In recent conversations that I had with Chairman Intrater, he confirmed that Saddam Hussein has only this one goal—keeping his weapons of mass destruction capability—and he further stated with clarity that Iraq is well out of compliance with U.N. resolutions relative to eliminating those weapons and submitting to inspections and out of compliance with the agreement that he signed up to in February with Kofi Annan.

Mr. President, I believe there are a number of things we could do, a number of things both in covert as well as overt fashion. There is more policy energy that ought to be placed on this effort, and I believe that, as I have set forth in my comments, it is critical for us to engage in that effort, to hold him accountable.

In February, when we had an armada positioned in the gulf, President Clinton said that "one way or the other, we are determined to deny Iraq the capacity to develop weapons of mass destruction and the missiles to deliver them. That is our bottom line."

The fact is, Mr. President, over these last months there has been precious little to prevent Saddam Hussein from developing that capacity without the inspectors there and without the unwavering determination of the United Nations to hold him accountable. So the situation still stands—What is our policy and what are we prepared to do about it?

Mr. President, I had asked to speak also on another topic for a moment—I see my colleague from New Mexico is here. Let me ask him what his intentions might be now and maybe we can work out an agreement.

Mr. DOMENICI. Mr. President, I am on the list for 20 minutes, and I have a 2:30 beginning on the budget process working with the White House on some offsets. How much longer did the Senator need?

Mr. KERRY. Mr. President, under those circumstances, I know that the Chairman needs to get to those talks. I would only say to you that in the period of time. What I will do is just proceed for another 5 minutes, to summarize my thoughts, if it is agreeable.

Mr. President, over the years, a consensus has developed within the international community that the production and use of weapons of mass destruction has to be halted. We and others worked hard to develop arms control regimes toward that end, but obviously Saddam Hussein's goal is to do otherwise. Iraq and North Korea and others have made it clear that they are still trying, secretly and otherwise, to develop those weapons.

The international consensus on the need to curb the production and use of weapons of mass destruction is widespread, but it is far from unanimous, and, as the divisions within the Security Council over Iraq indicate, some of our key allies simply don't place the same priority on proliferation as we do.

The proliferation of weapons, be they conventional or of mass destruction, remains one of the most significant issues on the international agenda. Obviously Saddam Hussein's goal is to do whatever it takes, secretly and otherwise, to develop those weapons.

Our allies worked hard to develop arms control regimes toward that end, but obviously Saddam Hussein's goal is to keep his weapons of mass destruction capability—and he further stated with clarity that Iraq is well out of compliance with U.N. resolutions relative to eliminating those weapons and submitting to inspections and out of compliance with the agreement that he signed up to in February with Kofi Annan. Mr. President, I believe there are a number of things we could do, a number of things both in covert as well as overt fashion. There is more policy energy that ought to be placed on this effort, and I believe that, as I have set forth in my comments, it is critical for us to engage in that effort, to hold him accountable.

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starting salary and because too many kids come out of college today with loan payments due and with other opportunities that draw them away from the prospect of teaching. We really do have a major set of challenges about our education system. There is a great struggle here in Washington. A lot of people argue the Federal Government has no role whatsoever, there is nothing the Federal Government can do with respect at all, only 7 percent of the budget comes from the Federal Government, and as we all know, it is a cherished notion in America that schools are run locally. And that is the way we want it. I agree with that. There is nothing in what I propose that would suggest the Federal Government ought to increase its relationship. In fact, it can decrease it. But we have to acknowledge the reality that there are too many people who are entitled, respected, cannot do it on their own. There is a whole new set of relationships that need to be created in our education system between teachers and the principals, the school boards and the layers of bureaucracy that have been created for all of these years.

So I suggest we ought to undo the bureaucracy, think differently, think out of the box and not be locked into a tradition debate between Democrats and Republicans, conservatives and liberals. We ought to look at the things that work best in a parochial school, in a private school—or in a wonderful public school system. Let's have open competition within the public school system between teachers and the principals, the school boards and the layers of bureaucracy that have been created for all of these years. Therefore, we should raise spending to the level of the nation's median of basic education revenues per pupil. I believe what we ought to strive to do is to allow every school within the public school system to become a charter school within the public school system, allow those schools to be able to have principals who run the school on a local basis, hiring teachers from any walk of life, being responsive to the needs of our students and with the teachers and they have worked out their own hybrid relationships with the teachers' unions and with the layers of bureaucracy. They have liberated themselves in many ways from what stifles creativity in too many of our schools. In essence, they have become a charter school within the public school system.

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How is it that you can have a professor in a college who would not be able, on a long-term basis—yes, maybe on a provisional basis—but on a long-term basis to teach in the public school system? We need to provide choice and competition within the public school system. We need accountability in those systems in ways that parents and children and the community as a whole will be more involved in the life and breadth of that school. I am going to be introducing legislation to help bring that about, and colleagues later in the year. I will be putting it in now as an outline, for purposes of the Record. I look forward, I hope in the next Congress, to our opportunity to engage in a stronger and more lively debate about real solutions to the crisis of education in America.

I yield the floor and ask unanimous consent the outline be printed in the RECORD.

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

A PLAN TO EDUCATE AMERICA'S CHILDREN
(By Senator John F. Kerry)

I believe what we ought to strive to do is to allow every school within the public school system to become a charter school within the public school system, allow those schools to be able to have principals who run the school on a local basis, hiring teachers from any walk of life, being responsive to the needs of our students and with the teachers and they have worked out their own hybrid relationships with the teachers' unions and with the layers of bureaucracy. They have liberated themselves in many ways from what stifles creativity in too many of our schools. In essence, they have become a charter school within the public school system.

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Fully fund Title I so almost all school districts would receive some funds to implement comprehensive school reform (90 percent of all local school districts receive Title I funds). Funding would be $200 million in FY1999, $400 million in FY2000, $600 million in FY2001, $1 billion in FY2002, and $4 billion in FY2003.

**Title II—Ensure that Children Begin School Ready to Learn**

Recent scientific evidence conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits. Many local communities across the country have developed successful early childhood efforts and with additional resources and enhanced opportunities, we can help more children than ever before.

In FY2002, an estimated $20 million per year would be $20 million per year. States and local districts would receive some funds to implement comprehensive school reform (90 percent of all local school districts receive Title I funds). Funding would be $100 million per year and distributed to states through the Title I formula.

**Title III—Excellent Principals Challenge**

Establish a grant program to states to provide $100 million per year in grants to states to make grants to school districts to recruit and hire the best principal candidates. One of the goals of these grants should be to pool their resources. One goal should be to create an opportunity for states to pool their resources. One goal should be to create an opportunity for states to pool their resources.

**Title IV—Establish 'Second Chance**

Secondary Education Act (ESEA) to establish a competitive state grant program for school districts to establish "Second Chance" programs. To receive the funds school districts must enact district-wide discipline codes which emphasize positive and effective instructional skills and practices, learn to use the funds to promote effective classroom management; provide training for school staff and administrators in enforcement of the code; implement programs to modify student behavior within the school; establish high quality alternative placements for chronic disruptive and violent students that will have a sense of civic duty.

**Title VII—Invest in Community-Based Schools and Community Service**

As many as five million children are home alone after school each week. Most juvenile involvement in crime—either committing crime or becoming victims themselves—occurs between 3 p.m. and 8 p.m. Children who attend quality after-school programs, however, tend to do better in school, get along better with their peers, and are less likely to engage in delinquent behavior. Expanding both school-based and community-based after school programs will provide safe, developmentally appropriate environments for children and help reduce the incidence of juvenile delinquency and crime.

In addition, many states and localities such as Maryland and the Chicago public school system require high school students to perform community service to receive a high school diploma. The real world experience helps prepare students for work and instills a sense of civic duty.

Expand the 21st Century Learning Centers Act by providing $400 million each fiscal year to local school districts to provide community service.

Grantees will be required to offer expanded learning opportunities for children and youth in the community. Funds could be used by school districts to provide: literacy programs; integrated education, health, social service, recreational or cultural programs; summer and weekend school programs; nutrition and health programs; expanded library services, telecommunications and technology education programs; services for individuals with disabilities, job skills assistance for the disadvantaged, and drug, alcohol, and gang prevention activities.

Provide $10 million in grants to states that have programs to assist children to establish a state-wide or a district-wide program that requires high school students to perform...
He was here ahead of me and, frankly, lion over five years.

More than 14 million children in America attend schools in need of extensive repair or replacement. According to a comprehensive survey by the General Accounting Office (GAO) requested by Senator Moseley-Braun, nearly $22 billion in bonds at a cost of $5 billion to school districts to pay interest on 5,000 public schools, provide federal tax credits and others, to include a resolution honoring him for his diligent and hard work on behalf of the public domain in the United States—the forest lands, the wilderness, the parks. In that bill, the resolution called on him to be known for as long as there is an Arkansas.

That is now 91,000 acres in total that will bear your name. I know many other things could be done to indicate our esteem for you, but many of us thought that this might just be one that would strike you as quite appropriate. And we hope so. It is now the law of the land. The President signed it about 22 hours ago. Thus, I am here saying it in your presence.

I thank you personally on behalf of our side of the aisle for everything you have done.

Mr. BUMPERS. Mr. President, if the Senator will yield just a moment for me to say: I want that to be my legacy, that the Senate, with the help of his staff, and others, has held this place. He has held it in respect, and that makes it a better place when we do that.

But I also want to remind the Senate, since it has not been stated here on the floor as I know of, that in the energy and water appropriations bill it was my privilege, at the behest of some of Dale BUMPERS' good friends here in the Senate, with the help of the staff, to provide a subsidy for the National Board certification (GAO) requested by Senator Moseley-Braun, legalization of 105,000 teachers across the country.

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your request for money for two education programs—interest reduction so that schools can afford buildings they need and so-called 100,000 teachers so we can lower the classroom ratio—those two programs were found by the official budget analysts to not provide the President's plan to include in this budget. What they said is, they break the budget that you just signed, Mr. President."

Point No. 1.

Point No. 2: If they are so important—denying that the President feels they are, and maybe many Senators feel they are—you know what the President did in asking us to pay for them? He didn't provide the money to pay for them. He did not. It is not in this budget. He said, "When you pass the cigarette tax, I would like you to use some of it for education."

Let me just say, that sort of says to me, "I couldn't find room in the budget for these things that I am telling you are very important. So if we get a cigarette tax, we'll pay for them."

Do you know what happened? After weeks of debate, we didn't get a cigarette tax.

Mr. President, what I know is that—well, the appropriations committee of the U.S. Senate on the bill that takes care of education—so there will be no misunderstanding, in this regular budget you asked for $31.4 billion for education—look at the appropriations bill, Mr. President. Ask OMB, your official people who look at it. See how much the Senate gave for education funding for the year you are complaining about. Interesting, $31.4 billion—exactly what you asked for. Now, Mr. President, you tell the American people you are going to keep us here until we do this, as if we are the ones to blame for it not being done—that is, those two programs.

I am living in a different world, or the President's memory has failed him, because do you understand, I say to my fellow Senator that the President is asking for that money now for these two programs—and for many Senators it is doubtful whether that is the way to help education, but, nonetheless, let's just follow it. He is now saying he is going to keep us here until we do it. But guess what. He knows, his helpers know, that he has to find programs within the Government to cut, which are called offsets, in order to pay for those two programs. He knows that, because how much the Senate gave for education funding for the year you are complaining about. Interesting, $31.4 billion—exactly what you asked for. Now, Mr. President, you tell the American people you are going to keep us here until we do this, as if we are the ones to blame for it not being done—that is, those two programs.

As of right now, 2:25 p.m., I am not aware that the President has submitted a means to pay for those programs. I am not aware that the President has told us how to pay for them if we wanted to adopt them. All I am asking is that we depoliticize a few of these issues, or at least state the facts correctly. We do not deserve blame for not funding programs, which we repeat, are not paid for in this budget, when as of today, 11 days into the fiscal year, we don't know how the President intends to pay for them. All right? That is the first point I would like to make today.

Second point: There has been a lot of discussion this morning on the floor of the Senate by some Senators about the Patients' Bill of Rights. I think the country understands, but just so it won't be left unaddressed here this morning, let me again refresh our collective memories. With every-thing that we took 3½ weeks to debate the Patients' Bill of Rights on the floor of the Senate.

The minority can say we didn't let it pass, but, Mr. President, the majority can say, they didn't let it pass. They had a bill; we had a bill. We had more than 50 votes; they did not. They kept our bill from passing which had more than sufficient votes. So I ask, who is to blame for a bill not passing? Again, I want to be practical, I can't say it is all, and law they make health care cost more. We could not see why, if the minority and the President think it is such an enormous new status and set of rights that we should adopt—and we tend to agree—why would the minority want to pass here, but we had the votes to pass ours—why would they deny a bill's passage based upon, they want lawyers back in the loop and we don't want lawyers back in the loop? I leave it to those of you who follow the Record. See if I am correct that that was the biggest stumbling block, and see whether the President and the minority caused the Patients' Bill of Rights bill to fail or not.

Those are two points, and I want to make a third.

Mr. President, in the election past, two things worked for the President. He is probably the best public relations man I've ever seen. Two things worked for him as certain—as certain as when you write a name in ink on a piece of paper with indelible ink; it will be there. And those two things that he has used over and over—you need not think they will pop into your mind—Social Security and education. Right?

What we have seen, I say to my friend from Alabama, we have seen the President ask for $2.3 billion. How? "No tax cuts out of the surplus because it jeopardizes Social Security." That is the typical every 2-year issue. It is raised again.

Let me suggest to Mr. President, Bill Clinton was the President that we are about, in the next 72 hours, to pass a very big appropriations bill. Maybe Pennsylvania Avenue does not know this, but here is the best estimate I have. We are about to spend—spend; not tax, spend—$18 billion of the surplus that was saved for Social Security. Got it? The same pot that the President says, "Don't touch it. It's for Social Security." We are about to spend $18 billion of it for so-called "emergencies." And I will get to that in a moment.

Friends here in the Senate and those listening, you cannot have it both ways. You cannot say to Republicans, "You can't use the surplus to give back to the American people in taxes, even if it is a tiny amount, emergency. But you can spend the surplus for bigger Government." You know, just does not wash. Both are diminishing, to some extent, the surplus of $1.6 trillion that we expect in the next decade.

Do you think it will be that much? In fact, the year we are in right now is supposed to have an $80 billion surplus. I think it will be $20 billion off because of economics. And then we will spend $18—$20 billion of it that we did not spend. The surplus is something for defense next year that we need, and there will probably be none left for tax cuts. That is what it looks like.

So I want to just talk about one of the emergencies.

I ask unanimous consent for 2 additional minutes.

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

Mr. DOMENICI. One of the 'emergencies' is a real emergency. That is to help agriculture in the United States. But let me suggest, to help agriculture in the United States, we sent the President a bill. We had $4 billion in the emergency funding for the farmers of the United States.

When the President of the United States asked us for emergency money—which he knew people like Senator DOMENICI would start adding up to see how much more you are spending of the surplus than the Republicans planned to use in tax cuts—the President asked for $2.3 billion for agriculture. We gave him $4 billion.

But in the meantime, a distinguished Senator on the minority side, whom I have great respect for, the minority leader, Senator DASCHLE, introduced a bill saying, "We want $7.2 billion as an emergency for agriculture. And we want to wipe out the new law which is only 18 months old called Freedom to Farm because we currently have an emergency." Why? $7.2 billion. The President asked for $2.3 billion. Now we get a communication from the President that says, "I asked you for $2.3 billion,
but essentially I want Daschle's bill, too.' Now, believe it or not, we sent him a bill with $4 billion. He vetoed it and said, 'Now you've got to give me what Senator Daschle's bill has.'

Mr. President, we have had the best people in this body working on agriculture who put this emergency package together. And believe me, the $4 billion package would make the American agriculture whole. There would be no net loss of income to the agriculture community. They know it. The experts know it. It is an election year, and because of the turmoil that exists that I have alluded to earlier in my conversation with the Senate here, the President now holds agriculture programs hostage. If we do not do it his way, we will close down the Department of Agriculture. Frankly, if we did, it would be the President's—it would be on his shoulders, not ours. But you know, it will get worked out. I just thought everybody ought to know that these things work.

Now, should it matter? We have worked for 20 years to get a balanced budget and a balanced budget agreement. The result has been nothing but good news for America. Almost everybody that even touched the issue lays claim to having done it all, including the President who claims the entire economic well-being of the country is because he is President. He can do that. That is fine.

The truth of the matter is, there are plenty—plenty—who deserve credit, including the Federal Reserve, including Republicans in the Senate, Democrats in the Senate, the same in the House. But it really started happening, in terms of restraining the budget, when both bodies became Republican. And we can go back and trace that. That is when we fixed welfare to save money, that is when we changed Medicaid to save big dollars, and on and on.

Let's go home, let's wrap this up in the next 8 minutes but let's remember the facts. And let's not let this superheavy, politically charged environment color things such that we are going to take that surplus we take so much pride in, and find out in 3 or 4 years, we are going to take that surplus we take so much pride in, and find out in 3 or 4 years, we are going to lose it, because you cut taxes. What happened? We lost it, because you cut taxes. What happened? We lost it. And that is the real reason that the South, from 1865 until the President who claims the entire Great Depression that Franklin Roosevelt had to provide immunizations for children against smallpox and typhoid. It was free. We got those shots at school. Our school English and literature teacher was my influence. She was my influence.

First of all, I was blessed by my parents. They didn't have running water. They didn't have much of anything. The people in our community died of typhoid fever in the summertime because the outhouse was just a few steps away from the well. Some of these things are drinkable water. Then Franklin Roosevelt began to provide immunizations for children against smallpox and typhoid. It was free. We got those shots at school. When I was 15 years old, I had a high school English literature teacher named Miss Doll. Every member of the U.S. Senate has been influenced by a college professor or high school teacher, maybe a preacher or somebody else. She was my influence.

I remember my mother, who had a tendency—not to denigrate my mother—to not build our self-esteem. My father was working against that, trying to teach us self-esteem, not ego, but esteem.

We were reading Beowulf in English, a great piece of literature. We would read Beowulf every night. One book or tramp; today we call them homeless people. My mother always saved a few scraps after breakfast knowing that some tramp was going to knock on the back door and ask for food. That was back before welfare came into existence. So we were very poor.

I remember when I was 12 years old my father heard that Franklin Roosevelt was coming to Arkansas. He was a great believer in America and the political process. He wanted my brother and me to see Franklin Roosevelt. So we drove over a gravel road 20 miles to Booneville, AR, and when the train on the Rock Island line pulled in, Franklin Roosevelt came out the front door, obviously being held up by a couple of Secret Service men. I hugged my father's arm and I said, 'Dad, what's wrong with him?' He said, 'I'll tell you later.' On the way home, he told us that Franklin Roosevelt had contracted polio when he was 37 years old, he couldn't walk, and he carried 12 pounds of steel braces on his legs. Then he told my brother and me that if Franklin Roosevelt could become President and couldn't even walk, there was no reason why my brother and I, with strong minds and bodies, couldn't become President, too. I never forgot that. That night I said, 'I'm going to become President.'

In the following year, my father was president of the Arkansas Retail Hardware Association. They gave our family a trip to Los Angeles for the national convention. I can remember the big party at the Biltmore Hotel in Los Angeles in 1937. I had never stepped on a carpet before in my life, and the Biltmore was filled with thick carpet. We just loved it. We did a speech at the Biltmore. We were staying at the $2-a-night cabin.

But the night of the big party, everybody was in tuxedos and long dresses, except my parents. And all the children were dressed up, too. Now, believe it or not, we sent my parents a bill with $4 billion. He vetoed it. Now, believe it or not, we sent my parents a bill with $4 billion. He vetoed it. If we had done it his way, we would have been killed during that Depression year of 1937. But I can remember my brother and I had on long pants and white shirts, no tie, no coat. We were terribly embarrassed. My father sensed that, and so the next day he told us that were were embarrassed but he reminded us that the most important thing was that we were clean, our clothes were clean, our bodies were clean, and the kind of clothes you wore really was not all that important. He made it OK.

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And then just out of high school, but only after 6 months at the University of Arkansas, I went into the Marine Corps. World War II was raging. It was a terrifying time. I fully expected to be killed in that war. The Marines were taking terrible casualties in the South Pacific. Happily, I survived that. The best part of it was when I got home there was a caring, generous, compassionate Federal Government, waiting with the GI bill.
While my father would have stolen to make sure we had a good education, my brother went to Harvard Law School and I went to the University of Arkansas and later Northwestern University Law School—both expensive schools my father could never afford. I studied and spent that hour with President Truman, who asked me how I liked being Governor, and I thought the world was my oyster and I fully intended, as I say, to run. The reason I didn’t run is because after I had been here for a year, I realized that this whole apparatus was much more complex than I thought it was.

I told my children, if I had three lives to live, at the end of the last one, I would look back prior to 10 years at the end of it and realize how dumb I was. I was so smart when I graduated college, my first year in law school, he and my mother were killed in a car wreck. They were tragically killed by a drunk driver. Neither of them had ever had a drink in their life. That is what made it so bizarre. The big disappointment of my life was that my father didn’t live to see me Governor or Senator.

The next defining moment of my life was when I was practicing law in a little town of 1,200 people and decided to run for Governor. The day I filed, a poll was taken statewide. It was the last day of the filing deadline. I found that of the eight Democratic candidates, I had percent name recognition. It was probably the most foolhardy thing I ever did in my life. I was trying to keep faith with my father, and I believe strongly in our country and I believe in the people of our country and I believe strongly in our system. I believe in the balance of power. I believe in the checks and balances system that the Framers of our Constitution provided.

The next defining moment of my life was shortly after I was elected Governor I got an invitation to go to Kansas City to speak at a Truman Day dinner. I told them I couldn’t go, the legislature was in session. I just assumed those legislators would screw the dome off the capital if I left town. They came back and said, “If you will agree to do this, we will let you spend an hour with President and Mrs. Truman,” and that was not worth the candle. So I went and spent that hour with President Truman and he asked me how I liked being Governor. I said, “I don’t like it, it’s a real pressure cooker. I am just a country lawyer. This is all new to me and the press is driving me crazy.”

I was telling him what a terrible job being Governor of Arkansas was, and it suddenly dawned on me I was talking to a man who had made the decision to drop the atomic bomb that ended World War II. And so I shut up. And then he turned, as I left, and said, “Son, when you are looking at the ceiling every night in the Governor’s mansion, wondering what you are going to do, remember one thing: The people elected you to do what you think is right and that by publications that you have been keeping. They have busy lives. So, remember, always tell people the truth, they can handle it.”

That didn’t sound like very profound advice to me at the time. But indeed it was. I have thought about it every day of my life since then.

Secondly, he said, “When you are debating in your own mind the issues that you have to confront, you think about this: Get the best advice you can. Get on both sides of the issue, make up your mind which one is right, and then you do it. That is all the people of the State expect of you—to do what you think is right.”

So when I drove off the mansion grounds 4 years later, coming to the Senate, as I told my Democratic colleagues the other night, most of whom know this, I came here with the full intention of running for President. I had been a very successful Governor for 4 years, Governor. I thought the world was my oyster and I fully intended, as I say, to run. The reason I didn’t run is because after I had been here for a year, I realized that this whole apparatus was much more complex than I thought it was.

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and there are times when only if you fully air something do the Senate Members really come here well enough informed to vote on it.

We are still the oldest democracy on Earth. We are still living under the oldest Constitution in Earth, and without men and women of goodwill being willing to offer themselves for service, there is absolutely no assurance that that will always be. Thomas Jefferson said, “The price of liberty is eternal vigilance.” He was not just talking about physical vigilance. We are still woefully inadequate in this country in the field of education. If I were the President of the United States and I were looking at a $70 billion surplus, I would make sure the first thing we did was to pass a bill that said no child in this Nation shall be deprived of a college education for lack of money. Look at all the statistics where we rank among the developed nations in education. And look at the state of health care. I am concerned about those who can afford it. And 45 million who have no health insurance and no health care do the best they can.

Mr. President, I have been richly blessed in my life, as I said, mostly by devoted parents. My Methodist Sunday school teaching. My mother wanted me to be a Methodist preacher and my father wanted me to be a politician. Think about growing up with that pressure. I am personally blessed with a great family. If I did not have the people of Arkansas would take note of it, and there would be headlines in all of the papers in the State. But if Betty died tomorrow the people of our State would grieve. She has founded two organizations.

When Ronald Reagan announced to this country that we might just fire one across the Soviet Union’s bow to the Western Hemisphere is free of polio. Africa will be free of polio by the year 2004. And measles is next. We are still the oldest democracy on Earth. We are still living under the oldest Constitution in Earth, and without men and women of goodwill being willing to offer themselves for service, there is absolutely no assurance that that will always be. Thomas Jefferson said, “The price of liberty is eternal vigilance.” He was not just talking about physical vigilance. We are still woefully inadequate in this country in the field of education. If I were the President of the United States and I were looking at a $70 billion surplus, I would make sure the first thing we did was to pass a bill that said no child in this Nation shall be deprived of a college education for lack of money. Look at all the statistics where we rank among the developed nations in education. And look at the state of health care. I am concerned about those who can afford it. And 45 million who have no health insurance and no health care do the best they can.

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was the substance of his mission that we all paid attention to. They kid him about stretching the cord that holds our microphones, but everybody was anxious to hear what DALE had to say or read what was in the RECORD.

So I have to have this chance to say how pleased I am for the opportunity to be here at the last speech Senator DALE BUMPERS was going to make in this Chamber. It has been an honor to serve with DALE as well as to serve with people such as JOHN GLENN. JOHN GLENN is one of the finest people who it is fair to say, has ever left this Earth. But we are going to see JOHN GLENN at the end of the month and witness his heroic and incredible mission into the sky. JOHN GLENN was with me when I was sworn into the Senate. We happened to be in Colorado on a vacation just 16 years ago, and he stood while I found a magistrate to swear me in because there was an opportunity based on the resignation of the then-appointed Senator.

At the same time we are saying goodbye to WENDELL FORD. WENDELL is someone who you could fight with, get your blood pressure up, more often than not you would lose the argument and that is fine. But WENDELL FORD got things done. And I want to tell you, if I had to be served by a Senator, I would want that Senator to have the same concern about my State and my well-being and my family and my friends as WENDELL did. WENDELL never let an opportunity go by without defending his people and the State of Kentucky. Although we disagreed on lots of occasions, I always walked away with a high degree of affection and respect for WENDELL FORD.

So when I listen to DALE BUMPERS summarize his life, I think about where we are, because too often the arguments here overtake the purpose of our functioning. But DALE BUMPERS, Senator BUMPERS reminds us: the mission is almost a holy one and that we have to step back and take a deep breath and get down to the business of the American people.

I wish to thank the Democratic leader for giving me these few minutes. I also wanted to take an opportunity to say so long to Senator DAN COATS. DAN COATS was a formidable opponent for me when New Jersey persisted in sending its trash out to Indiana where it was going to be dumped into the waste pit that had the certified landfills and all that. But DAN COATS didn’t object when New Jersey sent its All-American football players to Notre Dame or to the University of Indiana. But serving with DAN also has been a privilege.

Mr. President, I wrap up just by saying that DALE BUMPERS, if you listened to his words, arrived here encouraged by a father who saw the value of Government service, and it is an interesting and touching explanation of what was it that provided his motivation. My father also motivated me to engage in whatever enterprise I could to serve the public. But he didn’t know it then. He worked. He tried to survive with his family during the lean and tough years, ashamed that he had to resort to a job with the WPA. I will never forget how discouraged he was when he came home, but, he said, he had a job he could tell his family honestly. My father died at the age of 43, after a year of illness with cancer. I had already enlisted in the Army. He disintegrated in front of our eyes, leaving not only an empty house but an empty wallet. My mother had to work. I had to go to school and help pay the bills that were accumulated during that period of time.

But we both got here because we were encouraged by things that occurred in our families, messages that were sent by our parents, mine perhaps less articulate than the one I heard DALE BUMPERS describe. But we are here because they were able to give us that opportunity and we are here because we want to serve, to do something, to be a part of something as a result of having that opportunity.

To Senator DALE BUMPERS and the others, we say farewell. This place will be a lesser place without your presence, but because of your presence this place will be forever strengthened and to do what we have to do for the future. Rest assured that America will be strong. It will be different forces and different faces, but the work will continue to be done here.

Mr. President, I yield the floor to the PRESIDING OFFICER. If the Senator will suspend for just a minute, I am going to stretch the prerogatives of the Chair to say I came over to talk about Senator BUMPERS, whom I have gotten to know recently. We worked on park bills. I know no one more committed nor more easy to work with and who keeps his word any better. I am sorry to say that, but I needed to.

The Senator from South Dakota, Mr. DASCHLE, Mr. President, I don’t think anyone could say it any better than that, and I appreciate the Presiding Officer’s comments. They are certainly well spoken and very appropriate. I join my colleague from New Jersey in expressing feelings that are very hard to express in public. Senator BUMPERS and I have some things in common. I am not as eloquent as he is, but I feel at times such as this probably as overwhelming.

I love his sense of humor. I have used more Bumpers material in my public career than anybody else in this Chamber. I don’t think this is his story, but I might as well start with it. There was a time when Senator BUMPERS was at a dinner. We all go to these banquets over and over and over. We all drag our wives along. And they are so good to come with us so often. Betty was at this particular dinner with Senator BUMPERS, sitting, as she always does, at his side supportive and smiling.

The emcee introduced Senator BUMPERS as one who is a model legislator, a model politician, a model spokesperson for Arkansas, just a model person all the way around. On the way home, DALE commented to Betty about what a wonderful introduction that was. They got home; Betty brought the dictionary to DALE, sitting now in his own study, and read what the word "model" meant as it is defined in Webster’s. There it is defined as “a small replica of the real thing.”

Senator BUMPERS is a model in the truest sense of the word. In many respects I call him my model because he speaks, for what he does, for what he is, for how he interacts with his colleagues, for how he represents his State, for all of the courageous positions he has taken. I don’t know how you do better than that. I don’t know who it was who once said, “If we are to see farther into the future, we must stand on the shoulders of giants.” DALE BUMPERS is a giant. And it is upon his shoulders that we have stood many, many, many times to see into the future, as I have seen. He is the type of person who has led us, he cares for us, he always enlightens us.

As I heard Senator DOMENICI, the senator from New Mexico, say earlier: “He does it in a way that is not in fashion perhaps, not in keeping with all the normal rules of the body are.” The normal rules are, you are supposed to stay at your desk. Not Senator BUMPERS. Senate BUMPERS has the longest cord in Senate history. I joked the other night, when we finally see Senator BUMPERS depart, we are going to cut up his cord and give 10 feet to every Senator and save 10 more for the next. He goes up and down that aisle.

Since, as we are prone to do in this body, we name things after our colleagues—I happen to be fortunate to every Senator and save 10 more for the next. He goes up and down that aisle.

So it is a bittersweet moment. We recognize the time comes for all of us to depart, to say goodbye. As others have noted, and I am sure more will note before the end of the session, we say goodbye not only to our dear, wonderful friend DALE, but to his wife Betty as well. There is no question, as we all know, he over-married. There is no question, who the real force in the family. There is no question, to the visionary and the giant is. As Senator Bumpers so capably noted, there is no question who is beloved in the State of Arkansas. We will miss Betty Bumpers and her vision and her humor and all of her. Senator Bumpers depart, we are going to cut up his cord and give 10 feet to every Senator and save 10 more for the next.

I asked my staff to put some thoughts together and I really want to share some of them because I think, for the record and for our colleagues and for those who may be watching, it is important to remember who it was we just have heard from.

We heard from a Marine. We heard from a man who volunteered to serve
during World War II. We heard from a person who grew up in a small town, Charleston, AR—I don’t have a clue where it is—where he worked as a smalltown lawyer and taught Sunday school. He may not have been a Methodist preacher, but he was a Sunday school teacher and that’s where he got his law degree. He decided, in 1970, to run for Governor. What he did not say is that he was one of eight candidates vying for the Democratic nomination. He did indicate that polls taken at the start of the race gave him a minus 29 percent approval rating. That is half of what it is right now. He sold a herd of Angus cattle for $95,000 to finance his TV ad campaign. You couldn’t get that much for Angus cattle today.

He finished the primary in second place, behind someone whose name we all know, Orville Faubus, whose race-baiting brand of politics still dominated much of Arkansas Democratic politics. He beat Orville Faubus in a run-off to beat the incumbent Republican, Governor Winthrop Rockefeller, in a general election by a margin of 2 to 1.

After being elected Governor, DALE BUMPERS was asked by Tom Wicker, then the foreign editor of the New York Times, to explain how a man would come from obscurity to beat two living legends. He answered simply, “I tried to appeal to the best in people in my campaign. And that is what he has done his entire public career; he has appealed to the best of people.

As Governor, he worked aggressively and successfully to modernize the State government. He put a tremendous emphasis on improving education and expanding health services. Then, in 1973, with 1 year remaining in his term, he made the decision to challenge another living legend, William J. Fulbright, for the Democratic nomination for the U.S. Senate. Senator Fulbright was, at that time, a 30-year incumbent Senator. It probably did not come as a shock at that time. He had already decided who my man for President was. I remember the conversation as if it took place yesterday. I was reminding him about his ambiguous stand on the Senate floor, about his ambition. That was the ambition for many of us as well. He would have been the same kind of outstanding President that he has been the outstanding Governor and Senator we know today. That was not to be. But in the eyes of all of us, DALE BUMPERS will always stand as the giant we knew, as the respected legislator we trust, and as the friend we love.

I yield the floor.

Mr. NICKLES addressed the Chair. The PRESIDING OFFICER, the Senator from Oklahoma. Mr. NICKLES. Mr. President, I ask unanimous consent to speak as in morning business. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I compliment my colleagues on their fine remarks about our colleague, Senator Faubus. I already made a speech complimenting him for his service to the Senate. I noticed my speech had several things in common with the speech of Senator DASCHLE. I alluded to the fact of Senator BUMPERS’ sense of humor, which all of us have enjoyed, Democrats and Republicans, and I also referred to the fact that he had the longest microphone cord in the Senate. He has used it extensively, and we have all enjoyed that as well.

BUDGET NEGOTIATIONS

Mr. NICKLES. Mr. President, I want to make several comments concerning some of the negotiations that are going forward. I remind my colleagues in the Congress that the Constitution gives the Congress, not the President, the authority and the responsibility to appropriate money, to pass bills. As a matter of fact, article I of the Constitution says:

All legislative Powers herein granted shall be vested in a Congress of the United States. . . .

Not in the executive branch, in the Congress, in the people’s body.

It also says under article I, section 9: No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

Again, made by Congress. I think some people in the administration think that they are Congress now, that they can write appropriations bills. The Constitution says a President has his constitutional authority, and if he wants to veto appropriations bills, he has a right to do so. Let him exercise that right. He doesn’t have a right to write appropriations bills.

For some reason, some people have gotten this idea that the administration is an equal partner. They are an equal branch of Government, but we have different functions in Government. The executive branch can submit a budget, they can confer, they can consult, but Congress appropriates bills, and we need to do so.

Now we have the President making ever-extending demands: “Well, I’m not going to sign that bill if you don’t spend so much money.” Fine. Very good. He vetoed the Agriculture Department appropriations bill because he said we didn’t spend enough money and didn’t spend enough money under the guise of emergency agriculture assistance.

He requested $2.3 billion for emergency assistance. We appropriated $1.2 billion, and he vetoed it and said, “We want to spend $7 billion.” In a period of a couple of weeks, he has more than doubled his demands. He has a right to veto the bill; fine. He doesn’t have a right to write the bill.

Many people in his administration, maybe the President himself, seem to think, “We are going to write the bill; we’re just not going to sign it; if they don’t give us more money, we are going to shut down the Government.” Fine, he can shut down the Government.

I stated to the press, and I will state it again, this Congress will pass as many continuing resolutions as necessary, and it may last all year. We may be operating under continuing resolutions. All year long, I personally don’t have any desire, any intention of funding all of the Presidential requests that are coming down the pike, for which, all of a sudden, he is making demands. I hope that our colleagues will support me in that effort.

I am not in that big a hurry to get out of town. I heard the President allude to that in a very partisan statement that he made yesterday with Members of Congress: “We need to keep Congress in.” Mr. President, we will support resolutions continuing Government operations at 1998 levels, this year’s levels. We will pass that as long as necessary.
We passed one for a week. We passed one for 3 days. We may have to pass another one. We may have to pass it for the balance of this year, maybe into next year, whatever is necessary. But I do not intend on being held hostage. The President said that Wonym, give me more money. I want to spend more money. We cannot decide this; we will have a bunch of colleagues go in some show of support on the last day of the session. Bingo.

If they wanted to pass a Patients' Bill of Rights, they should have said, "Hey, let's pass something. Yes, let's find out where the votes are." The Democrats would never agree to a unanimous consent request to pass Patients' Bill of Rights.

They are the ones who killed the bill. When the President said, "... We want bipartisanship defeat progress..." he forgot to say the Democrats wouldn't agree to a process to pass the bill, which we offered in June and several times in July. He forgot to mention that. It kind of bothers me because, again, he says, "We want bipartisanship," and he makes a partisan statement on a national radio address.

I have also heard the President state, "We can't have a tax cut because we're going to reserve every dime of the surplus to protect Social Security." All the while—he knows it and we know it—he has his staff members running around the Congress saying, "We want more money and we want to declare everything an emergency so it won't be an entitlement. It won't be part of the budget agreement" that he adopted and agreed to in 1997. "We want more money."

The totals are right in the $18 billion, $20 billion-plus range. We want more money. We have to go to the House appropriations bills, and we need to pass them. If he vetoes them, fine, he does it. No problem. It is all off budget; it doesn't count; it's an emergency. What a great game.

Again, I remind my colleagues that the Congress is responsible for passing appropriations bills, and we need to pass them. If he vetoes them, fine, he can shut down the Government. We can pass continuing resolutions, and we can do that as much as necessary.

The President in his weekly radio address said:

"The President's program did not win. We had two or three votes earlier this year. He did not win on the school building program; did not win on the 100,000 new teachers. But yet this is a new demand, that he is going to try to get it, he is going to sign the bill unless we fund it.

I am going to tell you right now, at least as far as this Senator is concerned—and maybe I do not control the conferences—but I do not have any intention to ever fund those programs. I think decisions on hiring teachers and building school buildings should be made in the local school districts, by the local school boards, by the parent/teacher associations, by the Governors, not by some Senator or, frankly, by some bureaucrat in the Department of Education.

So maybe we will be here for a long time. Again, the President has the right to veto the bill. Fine, let him veto it. Maybe we will be operating on continuing resolutions for the rest of the year. If that is what happens, that is what happens. I will, again, repeat that we will pass enough continuing resolutions as necessary to keep Government operating.

Maybe we will have to pass one every day. Maybe we will have to pass one every week. Maybe we will have to pass one every month. But we are not going to shut Government down. We are not going to demand anything. We will pass the continuing resolutions to keep Government operating at fiscal year 1998 levels as long as necessary. We will stay here. We are happy to stay next week. We are happy to stay the following week, maybe we will have to stay all year, if that is necessary. But I hope, and I believe, we are not going to succumb to this last-minute politicization of, "We want more money. Let's spend the surplus."

I have even heard, in the President's radio or in his speech yesterday—"We've got the first balanced budget in 29 years. Our economy is prosperous. This budget is purely a simple test of whether or not, after 9 months of doing nothing, we're going to get the right thing about our children's future."

"We want more money" is basically what he is saying. I also heard him say we should save the surplus for Social Security. Now he is talking about new investments. In his speech yesterday, he said we need new investments for everything I have mentioned, but he also runs through a whole list of other new spending, social spending, that he is trying to crowd through in the last minute.

I do not have any intentions of succumbing to these demands. I hope my colleagues will not. I just say this, with all respect, how the President
could demagog that we cannot have a tax cut because of the Social Security surplus and then in the next minute, propose to spend the so-called surplus on all these investments is beyond me. I just have no intention whatsoever of going along with that. I think we should abide by the budget. I do not think we should squander the surplus with new Federal spending. Some of us were interested in tax cuts because we knew that if we did not allow taxpayers to keep their money, that Congress and/or the administration would say, “Well, let’s have more spending.” There is a real propensity around the place to spend money. I just hope that our colleagues will resist that temptation. I hope that they will resist these new overtures by the administration that seems to think they should be an equal body with Congress in writing appropriations bills. I think we should have legitimate negotiations but, frankly, that does not make people equal partners.

We have equal branches of Government with divisions of powers. Again, the Constitution says that Congress shall write the laws and Congress shall appropriate the money. We need to get on with our business and do that, send the appropriations bills to the President. If he vetoes them, fine, then let’s pass a continuing resolution to keep Government open.

TRIBUTE TO UNITED STATES SENATOR DALE BUMPERS

Mr. BYRD. Mr. President, in the bustling commotion of the ending days of the 105th Congress, members are preoccupied with efforts to enact sought after objectives important to their constituents. I can barely keep up loose ends, putting to flight the bogies on projects, and looking forward to going home to our constituents and to a break in the hectic schedule of the United States Senate. Regrettably, as this Congress ends, we are also faced with the difficult task of saying goodbye to colleagues who have chosen to follow a new path in life. As I reflect on my years in Congress and on my association with its many members and their various personalities, their goals and, yes, sometimes, their eccentricities, I am reminded of some very important milestones in history made possible by these fine Americans. I am reminded of my good fortune to have been associated with men and women who represent the American people from all walks of life and from all corners of the United States.

In my reflections, I have thanked my Creator for allowing me to serve my country, my constituents, and the women, and I am, indeed, sorrowful at the upcoming loss of some of the finest men I have ever known.

I pay tribute today to an exceptional United States Senator; a man who, in his life, has served and to have been associated with—a man of unusual conviction, passion, and resolve. He has been called the last Southern liberal, and he is proud of it. He often quotes from “To Kill a Mocking Bird.” He is THE commanding foe against the space station. The above discourse clearly references the actions of only one man—Senator DALE BUMPERS, Democrat from Arkansas. He is the United States Senator from Arkansas for “right-turn-on-red,” his first legislative victory and one for which, I am told, he received devilish teasing from a colleague who warned that “many people might want to drive straight!!” I will miss my friend, who is retiring following twenty-four years of service. He leaves a legacy that has made a difference, not only to the people of Arkansas, but to all Americans. His tireless efforts to end federal policies that he believes give away resources that are ours to keep and to drive straight!!

DALE BUMPERS’ legislative skills and record are clear. He is a modern hero to the underdog. But there is yet another side to the Senator from Arkansas that deserves recognition—the DALE BUMPERS who is a husband, a father, and a grandfather. Married to Betty Lou Flanagen, DALE’s “Secretary of Peace,” for 49 years, he is devoted to his family and of his affectionately of his family and of his influence on his consideration of legislative issues. Yes, Senator DALE BUMPERS of Arkansas has a personal record of which he can be proud.

It is with regret that I bid farewell to my friend and colleague, who is now departing the United States Senate. I believe that the Senate has deeply benefited from the work of U.S. Senator DALE BUMPERS. As I say my farewell to DALE BUMPERS, I want him to know that when the 106th Congress convenes, I will remember his thoughtful recital.
of the fictional Atticus Finch in "To Kill a Mocking Bird."
"For God's sake, do your duty."

TRIBUTE TO JOHN GLENN

Mr. LAUTENBERG. Mr. President, I rise today to bid farewell to an American hero, a great Senator and a wonderful friend—Senator JOHN GLENN. Senator GLENN is retiring after serving the people of Ohio for four terms.

But his service to our country did not begin in the Senate, nor will it end here. Senator GLENN served in the Marine Corps during World War II and fought in combat in the South Pacific. He also fought with valor in the Korean conflict and ended up flying 149 missions in both wars. He has received numerous honors including six Distinguished Flying Cross and the Air Medal with 18 clusters. He became a test pilot and set a transcontinental speed record in 1957 for this first flight to average supersonic speed from Los Angeles to New York. In 1959, he was selected to be one of seven astronauts in the space program. Seven years later, he made history as the first American to orbit the earth, completing a 5 hour, three orbit flight.

His heroism inspired me and all of the American people. He received the Space Congress Medal of Honor for his service. After 23 years in military service, he retired in 1965 and went into the private sector. Despite his outstanding service to the country, it was not enough for JOHN GLENN. He ran for the Senate in 1974 and is now completing his 24th year.

Despite his fame, Senator GLENN was a workhorse, not a showhorse in the Senate. He took on complicated issues like nuclear proliferation, troop readiness, government ethics, civil service reform and campaign finance reform. He did his work with great diligence and thoroughness, with his eye on accomplishing bipartisan policy.

If you add his 23 years of military service to his 24 years of Service to the people of Ohio, that is 47 years of dedication to our nation.

But even this is not enough for JOHN GLENN. On October 29th of this year, he will return to space on a shuttle mission. He will be the oldest person ever to travel in space but even then his journey will not be over.

He will continue to represent the best of the American spirit and be an informal ambassador for scientific exploration.

I wish him, his wife Annie, his children and grandchildren the very best of the American spirit and be an unsung hero. But even this is not enough for JOHN GLENN. He ran for the Senate in 1974 and is now completing his 24th year.

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I wish him, his wife Annie, his children and grandchildren the very best of the future.

RETIREMENT OF DALE BUMPERS

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to an extraordinary person, a respected and honorable man, a true friend, and one whom I am truly saddened to see leave the Senate—Senator DALE BUMPERS.

Mr. President, Senator BUMPERS is, more than most, a true advocate for the citizens of the United States. I know of no better person who embraces issues with the passion and intellect that he demonstrates. His oratory skills are held more for his self-esteem than anybody, except, he said, his father. Not only does he indeed have a nice voice and he reads beautifully, he is among the best orators this Senate has ever seen.

Mr. President, earlier this year during the Appropriations Committee passed an amendment naming a vaccine center at NIH after DALE and Betty Bumpers. For almost 30 years, the two of them have worked tirelessly on a crusade to vaccinate all children— and because of their efforts and others, we have made great progress toward that goal.

Mr. President, when the Senior Senator from Arkansas left the Senate in July of this year, he left a void. We will lose a tireless champion for the underserved; a champion for the public's interest; a champion for responsive spending, not wasteful spending; and a champion for equal opportunity for our environment and for the arts and humanities. Senator BUMPERS has our respect, and he has the people's respect. We will miss him.

Mr. President, I wish my friend and his wife Betty, their children and grandchildren the very best for the future.

TRIBUTE TO WENDELL H. FORD

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to our esteemed colleague from Kentucky, the Minority Whip, Senator WENDELL H. FORD. I wish him well. All of us know that we have not heard the last from this dedicated and effective public servant.

His retirement from the Senate will end a formal career of public service to the Commonwealth of Kentucky and the United States which has lasted over three decades. After first serving in the Kentucky Senate, he was elected Lieutenant Governor in 1967 and then Governor of Kentucky in 1971. In 1974, he was elected to serve in the United States Senate.

Mr. President, in the history of this body, few Senators have protected the interests of his or her state as doggedly as WENDELL FORD.

Whether the issue was aviation, tobacco, telecommunications or farm legislation, Senator FORD has always put the people of Kentucky first. And even though we have disagreed on a key issue or two, I know that he is guided by what he believes is best for the people of his state.

As the senior Senator from Kentucky put it himself: "If it ain't good for Kentucky, it ain't good for WENDELL FORD."

And the people of Kentucky have shown their deep appreciation to Senator FORD in return. In 1992, he received the largest number of votes ever
recorded by a candidate for elected office in the Commonwealth.

In March of this year, he became the longest serving United States Senator from Kentucky in history.

Mr. President, although New Jersey and Kentucky are very different states, Senator FORD and I share many things in common. First of all, our vintage—we were born in the same year. We both fought for our country in World War II. We both ran businesses before we entered public life.

Throughout their experiences, Senator FORD has left a formidable legacy to the nation as a whole, in addition to his legendary status in Kentucky. He was the chief sponsor of the National Voter Registration Act, also known as the “motor voter” law. This law helps ensure that more of our citizens are officially registered to participate in our democracy. He was also instrumental in the enactment of the Family and Medical Leave Act, the Age Discrimination in Employment Act Amendments of 1986, and many other landmark aviation and energy laws.

The Senior Senator from Kentucky will be greatly missed here in the United States Senate. We will miss his leadership, his experience and also his great wit. But our personal loss will be the Commonwealth of Kentucky’s gain. I wish him, his wife Jean, their children and grandchildren Godspeed as he returns to Owensboro.

TRIBUTE TO SENATOR DAN COATS

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the distinguished Senator from Indiana, DAN COATS. While he has only been in the Senate ten years, he has made an important contribution. One example is the work he put into developing the historic, bipartisan Family and Medical Leave Act.

Mr. President, Senator FORD has consistently fought to make WENDELL FORD an instant friend and mentor to me when I arrived in the Senate. His extensive knowledge and public service experience has made him an invaluable asset to our caucus’ leadership.

And he has been quite a leader, now as Minority Whip, first as Chairman and then Ranking Member of the Rules Committee, and in prior years, the Chairman of the Democratic Senatorial Campaign Committee.

Mr. President, Senator FORD has left a great void here, a formidable legacy to his country and to the nation as a whole. In addition to his legendary status in Kentucky, he was the chief sponsor of the National Voter Registration Act, also known as the “motor voter” law. This law helps ensure that more of our citizens are officially registered to participate in our democracy. He was also instrumental in the enactment of the Family and Medical Leave Act, the Age Discrimination in Employment Act Amendments of 1986, and many other landmark aviation and energy laws.

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A GOOD SENATOR DEPARTS

Mr. BYRD. Mr. President, first appointed to the United States Senate in 1989 by Governor Robert Orr to succeed Vice President Dan Quayle, Senator COATS subsequently won reelection and served this body during these past nine years with knowledge, skill, and a true dedication to his Senatorial duties. As he departs this great institution to pursue future endeavors, we bid him farewell and best wishes.

Prior to joining the United States Senate, Senator COATS made his mark in several arenas. In his early years, he served as a staff sergeant in the U.S. Army, experience he drew on as a member of the Armed Services Committee. With a passion for law and politics, he worked full-time as a legal intern while attending the Indiana University School of Law at night and serving as Associate Editor of the Law Review. Later, in an effort to gain business experience, he switched tunes from bar to blues to become a vice president for an Indiana insurance company, all before embarking on his legislative career in the House of Representatives, where he was elected in 1980 to represent Indiana’s Fourth District.

During his tenure in the Senate, Senator COATS has served on three powerful and influential Senate Committees—Armed Services, Intelligence, and Labor and Human Resources, and has crafted sound education, health care, and national security policy for the nation. I have had the pleasure of working with Senator COATS on the Armed Services Committee, where he has served on the Personnel, Readiness, and the Airland Forces Subcommittees. There have been a variety of national defense issues on which we have collaborated, which I believe work in the best interests of our national security and the importance of a strong and well equipped line of defense. Just this year, I appreciated his insight and support of my amendment to the Department of Defense Authorization bill to require separate training units for male and female recruits during basic training.

And, of course, there have been the issues on which we have not seen eye-to-eye. I distinctly remember tangling this year on the Senate floor over Constitutional issues relating to the deployment of troops in Bosnia and Herzegovina. And, on the balanced budget amendment and the line item veto, we have been on opposite sides of the coin as well. Yet, Senator COATS always carries himself well, demonstrating the utmost respect for his colleagues on both sides of the aisle. For this, I hold him in high regard.

Perhaps, Senator COATS’ greatest contribution to the United States Senate has been as a member of the Labor and Human Resources Committee. His dedication to strengthening families began long before his political career. He is a longstanding member of Big Brothers/Big Sisters of America, and was recently elected national president of that organization. His service in the House included serving as a leading member of the Select Committee on Children, Youth, and Families. On appointment to the Senate, he became Ranking Member of the Subcommittee on Children and Families, where he has served as Chairman since 1985. He has been the author of the “Project for American Renewal,” to revive civil society and America’s character-forming institutions, and he is a passionate advocate for school choice, unpaid leave for family and medical emergencies, and prayer in schools.

Most recently, Senator COATS shepherded legislation through Congress to reauthorize the Head Start and Low Income Home Energy Assistance program. In appreciation of his efforts and compassion for our nation’s children and families, it is fitting that this piece of legislation was named in his honor. The Coats Human Service Reauthorization Act is but just one example of his fine work here in the United States Senate.

Mr. BURNS addressed the Chair. The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I understand we are under an order that the Senate is to go into recess at 3 o’clock. However,
Mr. BURNS. I ask unanimous consent that I be able to make some remarks about our departing colleagues at this time.

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

TRIBUTE TO FIVE SENATORS LEAVING THE SENATE. SENATORS DIRK KEMPTHORNE, JOHN GLENN, DAN COATS, WENDELL FORD, AND DALE BUMPERS

Mr. BURNS. Mr. President, five Senators will move on at the closing of this session of the 105th Congress. And they are Senators that have, with the exception of one, been here ever since I joined this body back in 1989.

DIRK KEMPTHORNE from Idaho was elected after I was. And now after one term he has elected to go back to his home State of Idaho.

It seems like becomes more and more difficult, as time goes by, to attract men and women to public service, and especially to public service when there are elections.

He brought a certain quality to this Senate. On all issues of the Environment and Public Works Committee, he was sensitive to the environment and all the public infrastructure that we enjoy across this country. It just seemed to fit, because he had come here after being the mayor of Boise, ID. And his very first objective was to tackle this business of unfunded mandates. He took that issue on and provided the leadership, and finally we passed a law that unfunded mandates must be adhered to whenever we tell local government, State government, that it is going to take some of your money to comply with the laws as passed by the Federal Government.

He, like me, had come out of local government. He knew the stresses and the pains of city councilmen and mayors and county commissioners every time they struggle with their budget in order to provide the services for their people, when it comes to schools and roads and public safety—all the demands that we enjoy down to our neighborhoods.

We shall miss him in this body.

To my friend, JOHN GLENN of Ohio, who has already made his mark in history that shall live forever, he has left his mark on this body. And not many know—and maybe not even him—but I was a lowly corporal in the U.S. Marine Corps when he was flying in the Marine Corps. So my memory of JOHN GLENN goes back more than 40 years to El Toro Marine Corps Air Station in Santa Ana, CA.

As he goes into space again at the end of this month, we wish him Godspeed. He gave this country pride as he lifted off and became the first American to orbit the Earth. And he carried with him all of the wishes of the American people.

To DAN COATS of Indiana, a classmate, we came to this body together in 1989. Our routes were a little different, but yet almost the same—he coming from the House of Representatives and me coming from local government.

He is a living example of a person dedicated to public service. But it never affected his solid core values. He has not changed one iota since I first met him back in 1989. The other principal is on the floor today. It is WENDELL FORD of Kentucky. I was fortunate to serve on two of the most fascinating and hard-working committees in the U.S. Senate with Senator FORD: The Commerce Committee and the Energy Committee. Those committees, folks, touch every life in America every day. We flip on our lights at home or in our businesses. We pick up the telephone, listen to our radio, watch our televisions, move ourselves from point A to point B, no matter what the mode or plane. Yes, all of the great scientific advances this country has made, and research and the improvement of everyday life and, yes, even our venture into space comes under the auspices of the Commerce, Science and Transportation Committee and the Energy Committee. Those two committees play such a major role in the everyday workings of America.

WENDELL FORD was one great champion and one of the true principals in formulating policies that we enjoy today. He played a major role in each and every one of them.

Again, it was my good fortune to work with BUMPERS on two committees: The Small Business Committee and the Energy Committee. There is no one in this body that has been more true to his deeply held beliefs than Senator BUMPERS. Our views did not always mesh—and that's plane. Nonetheless, it was the integrity and the honesty that allowed us to set our differences, even though we were 180 degrees off plumb.

I think I have taken from them much more than I have given back to them. I have never gone through any negotiations involved with the White House that they didn't call me. I have gone to the White House to talk with President Reagan; I have gone to the White House to talk with President Bush in order to try to find a way to be helpful, and they were trying to find a way to persuade me to be helpful. I don't see anything wrong with that. And I don't believe the President wants to veto bills. That is one reason that everybody agreed to the group—if that is a good term, or the Members of the group—they might be able to work out bills that can be signed. I don't see anything wrong with the administration playing a part in what they believe is the proper course.

We talk about a budget. Going back to 1999, there wasn't a Republican that
voted for President Clinton's budget at that time. I wonder how those now who are saying we have a great surplus can be breaking their arm patting themselves on the back for that great vote that they didn't cast in 1993.

The Senator from Oklahoma are the bills they were supposed to kill yesterday. Education? No. Where patients' Bill of Rights? No; that was legislation? What have we passed? The President has every right to be part of the negotiations. I wanted to say to my colleague who had to leave, what is wrong with wanting more for education? What is wrong with wanting to improve our school system? What is wrong with having smaller classes? What is wrong with having more teachers? I don't see anything wrong.

What is wrong with seeing that every child that leaves the third grade can read? What is wrong with that? The 21st century will be full of technology and we have to have educated children. So what is wrong with trying to improve education in this country? Public education teaches 90 percent of all of our children. It has to be the best educational system we can give them. We need to be able to improve education all across this country.

How in the world can the Senator from Oklahoma say that the Federal Government will appoint their teachers? We give money to the States. The State chooses the selection. The States then, set the criteria. The States, then, have the vacancy. The States do that. I have never known a Federal Government to hire a teacher in my State. I have been Governor. I understand writing a budget. I understand what we do. I still understand it. But I don't believe the Federal Education Department hires teachers in my State or any State. So we are not telling them who to hire and who not to hire.

That is just a straw man, or whatever, to try to say we don't want Big Brother involved. We sure want Big Brother's money, we sure want Big Brother to pay it, but we don't want them to do something to do with any kind of guidelines.

So, when we come out on the floor and chastise the President and the administration for wanting to work out pieces of legislation, you talk to the farmers in the Midwest, talk to farmers in my State; they have had a tough several years. Sure, it may have been less a year ago than it is now and times have changed. We have had a bad summer. We have had real problems. So why are they giving us more money?

So, Mr. President, I suggest to those who want to come to the floor and have press conferences saying that the administration ought to stay out of our business and we will pass the legislation, well, where is it? Where is the legislation? What have we passed? The Patients' Bill of Rights? No; that was killed yesterday. Education? No. Where are the bills they were supposed to pass? "Let us get on with our business, the Senator from Oklahoma said. Well, let's get on with our business.

Here we are on Saturday, and we are lucky we are not in on Sunday afternoon. We will be here Monday. That is a holiday. They set a sine die date of October 9, and we don't even have the appropriations bills done. So let's not be too harsh on the administration for wanting to try to get it done.

I regret to say I wish all 13 appropriations bills had been on the President's desk and signed before October 1, which begins the fiscal year. I remember how hard Senator Robert Byrd, when he was chairman of the Appropriations Committee, worked to be sure that all the appropriations bills were on the President's desk by September 30. And they were. That is what we are supposed to do. Those are the rules.

So, Mr. President, I hope that over the weekend we can find some way that those who are responsible for the appropriations bills can bring them together, that they will find a way that we can say we have worked together, that we have used Henry Clay's advice and that we have compromised. Henry Clay said, "Compromise is negotiated hurt." Negotiated hurt. Clay said, "You have to give up something and it hurts, and I have to give up something and it hurts. Once we agree, then I am willing to sign a social contract." Clay was saying he was willing to support legislation to move the country forward and on another day we will argue the things we had to give up. So that is what we are all about here—the ability to sign a social contract and move forward in the best interest of this country. I hope that we can see the light at the end of the tunnel by the end of the week. I hope to be here to cast a vote in favor of a compromise and agreement that will make this country a better country. It is my last one, Mr. President. I would like to see as good a piece of legislation in all areas passed, so that when we look back on this session, we will have said we did a good job.
Mr. President, as he prepares to leave the Senate, I offer my sincere gratitude to Senator WENDELL FORD for his professionalism, for his friendship, for his leadership, for his candor, and for his many years of dedicated service to our Nation. I would also like to express my admiration and thanks to his able and gracious wife, Erma, to WENDELL’s gracious and dedicated wife, Jean. Few know, of course, of the tremendous sacrifices made by our spouses. But those of us who serve in this body understand the price paid by these tireless, silent partners. None has done so with greater dignity, or with more grace, than has Jean Ford.

And, so, I say to my friend from the Commonwealth of Kentucky, I have treasured the time we have worked together, and I wish him good luck and the eyes of a camera, you see just one dimension. But on the floor of the Senate but on the face of the Earth. He is a man of great sincerity, a man who can articulate his position so extremely well. He is a man who, when you look into his eyes, you know he is listening to you and he is going to do right by you and by the people of his State of Indiana, and he has done right by the people of the United States. He is a man who has faith, a man to whom I think a number of us have looked for guidance.

When you look at the Senate through the eyes of a camera, you see just one dimension. But on the floor of the Senate we are just people. A lot of times we don’t get home to our wives and kids and sometimes to the ball games or back-to-school nights. There are times when some of the issues don’t go as we would like, and it gets tough. At these times there are people like DAN COATS to whom you can turn, who has said, “Buddy, I have been there and I am with you now.” So, again, he is an outstanding individual.

Also, Mr. President, I have been really fortunate with the quality of the staff I have had here in the U.S. Senate during the 6 years I have been here. As I have listened so many times to the Senate clerk call the roll of those Senators, they have answered that roll. I would like to just acknowledge this roll of those staff members whom I have had. This is probably the first and only time their names will be called in this august Chamber:

Cindy Agidius, Maria Bain, Jeremy Chou, Camy Mills Cox, Laurette decade. And, so, I say to my friend from the Commonwealth of Kentucky, I have treasured the time we have worked together, and I wish him good luck and God’s speed. He is coming home.

Weep no more, my lady. Oh! weep no more to-day! We will sing one song for the Old Kentucky Home.

“For the old Kentucky Home far away.” — Stephen Collins Foster, 1826–1864.

Mr. KEMPThorne addressed the Chair.

The PRESIDING OFFicer. The Senator from Idaho.

TRIBUTE TO DEPARTING SENATOR AND SENATOR KEMPThorne’s STAFF

Mr. KEMPThorne. Mr. President, I appreciate you presiding as you do in such a class fashion. I would like to make a few comments here. I have been touched and impressed by the fact of colleagues coming to the floor and paying tribute to those Members who are departing. I have listened because, as one of those Members who are departing, I know personally how much it means to hear those kind comments that have made.

Senator Ford, who just spoke, is leaving after a very illustrious career. I remember when the Republican Party took over the majority 4 years ago and I was new to the position of Presiding Officer, it was not unusual for WENDELL FORD, who knows many of the ropes around here, to come and pull me aside and give me a few of the tips of how I could be effective as a Presiding Officer. I think probably one of the highest tributes you can pay to an individual is the fact that you see their family and the success they have had. I remember when WENDELL FORD’s grandson, Clay, was a page here. I think Clay is probably one of the greatest tributes paid to a grandfather.

DALE BUMPERS, often mentioned here on the floor about his great sense of humor, is an outstanding gentleman. He is someone whom I remember before I ever became involved in politics. I watched him as a Governor of Arkansas and thought, there is a man who has great selflessness. Someone you can look up to. And then to have the opportunity to serve with him has been a great honor.

JOHN GLENN. Whenever any of the astronauts—the original seven—would blast off into space, my mother would get all the boys up so we could watch them. I remember when JOHN GLENN blasted off into space. Again, the idea that somehow a kid would end up here and I was one, it was just something I never could dream of at the time. In fact, JOHN GLENN became a partner in our efforts to stop unfunded Federal mandates. You could not ask for a better partner.

Speaking of partners, he could not have a better partner than Annie. I had the great joy of traveling with them approximately a year ago when we went to Asia. That is when you get to know these people as couples. I remember that we happened to be flying over an ocean when it was the Marine Corps’ birthday. On the airplane we had a cake and brought it out, to the surprise of JOHN GLENN. But you could see the emotion in his eyes. I know the Presiding Officer is a former U.S. Marine, so he knows what we are talking about.

DAN COATS. There is no more genuine a person than DAN—not only in the Senate but on the face of the Earth. He is a man of great sincerity, a man who can articulate his position so extremely well. He is a man who, when you look into his eyes, you know he is listening to you and he is going to do right by you and by the people of his State of Indiana, and he has done right by the people of the United States. He is a man who has faith, a man to whom I think a number of us have looked for guidance.

When you look at the Senate through the eyes of a camera, you see just one dimension. But on the floor of the Senate we are just people. A lot of times we don’t get home to our wives and kids and sometimes to the ball games or back-to-school nights. There are times when some of the issues don’t go as we would like, and it gets tough. At these times there are people like DAN COATS to whom you can turn, who has said, “Buddy, I have been there and I am with you now.” So, again, he is an outstanding individual.

Also, Mr. President, I have been really fortunate with the quality of the staff I have had here in the U.S. Senate for the past six years, some of those have come and gone.

I have also received valuable assistance from interns who have worked in my state and Washington offices. I ask unanimous consent that the following list of interns for the past six years be printed in the RECORD.

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

INTERNS

Tyler Prout, James Rolig, Dallas Scholes, Robin Staker, Meghan Sullivan, Omar Valverde, Francione Whitlock, James Williams, Curt Wozniak, Tim Young.

Kim Albers, Chris Bailey, Kevin Belew, David Booth, Matt Campbell, Stephen Cogle, Pandi Ellison, Drew Grukowski, Chad Hansen, Sarah Heckel.

Laura Hyneman, Michael Jordan, Lisa Lance, Keith Lonergan, Lori Manzanhers, Matt Miller, Kate Montgomery, Rocky Owens, Kurt Pipal, Alan Pot.

Nichole Reinke, Don Schanz, Nathan Siera, Jacob Steele, David Thomas, Curtis Wheeler, Brian Williams, Angie Willie, Darryl Wrights.

Mr. KEMPThorne. Mr. President, this will probably be the last time officially on this floor as a U.S. Senator that I look at the faces of these people that you and I have worked with—the clerks, and Parliamentarians, the staff. It is family. The young pages that we see here with that sparkle in their eye and the enthusiasm that they have for this process—it is fun to talk to you and to see your sense of enthusiasm for this. As I said, you are going to have a sense of the U.S. Senate like few citizens, because you have been here, you have experienced it, and you have been up close in person.

But to those of you that I see now as I look to the desk, those who have sat there and I have worked with through these years, I thank you. America is well served by you, by your professionalism and your dedication.
So I thank you. I thank the Cloak-room again; all of the family; the staff, from the police officers and the waiters and waitresses, and the folks who make this place work; the Senate Chaplain; and, Mr. President, again I thank you for your courtesy, and I bid you fare-well. I yield the floor.

The PRESIDING OFFICIAL. Thank you, Senator. The people of Idaho and the people of the country are very proud of your service. We wish you well.

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that pursuant to the provisions of section 703 of the Social Security Act (42 U.S.C. 903) as amended by section 103 of Public Law 102–296, the Speaker reappoints Ms. Jo Anne Barnhart of Virginia as a member from private life on the part of the House to the Security Advisory Board to fill the existing vacancy thereon.

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

H. Con. Res. 214. Concurrent resolution recognizing the contributions of the cities of Bristol, Tennessee, and Bristol, Virginia, and their people on the origins and development of Country Music, and for other purposes.

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

H. R. 2560. An act to authorize the President to award gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to collectively as the “Little Rock Nine,” and for other purposes.

H. R. 4516. An act to designate the United States Postal Service building located at 11550 Livingston Road, in Oxon Hill, Maryland, as the “Jacob Joseph Chestnut Post Office Building.”

The message also announced that the House has passed the following bills, without amendment:

S. 2094. An act to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items.

S. 2235. An act to amend the Trademark Law Treaty.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7407. A communication from the Assistant Secretary for Employment and Training, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “General Administration Letter No. 8–98” received on October 6, 1998; to the Committee on Finance.

EC–7409. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled “Performance Ratings” (OMB M–36, 1998) received on October 6, 1998; to the Committee on Governmental Affairs.

EC–7410. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Price Competitive Sale of Strategic Petroleum Reserve Petroleum Products Standard Sales Provision” (RIN1901–AA81) received on October 8, 1998; to the Committee on Energy and Natural Resources.

EC–7411. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Federal Regulations Review Program” (RIN1992–AA14) received on October 8, 1998; to the Committee on Energy and Natural Resources.

EC–7412. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Audit Requirements for State and Local Governments Comply with the ADA”; to the Committee on the Judiciary.

EC–7422. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Development of Competition and Diversity in Video Programming Distribution and Carriage” (Docket 97–248) received on October 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7424. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Ginnie Mae MBS Program: Book Entry Securities” (Docket FR–4332–T–41) received on October 8, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7414. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled “Federal Register Notice: Guide for the Federal Register” (Docket FR–4332–T–41) received on October 8, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7415. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Clarification of Reporting Requirements Under the Wassenaar Arrangement” (RIN0969–AB74) received on October 8, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7417. A communication from the Executive Director of the Air Force Sergeants Association, transmitting, pursuant to law, the Association’s annual report for fiscal year 1998; to the Committee on the Judiciary.

EC–7419. A communication from the Chairperson of the United States Commission on Civil Rights, transmitting, pursuant to law, a report entitled “Helping State and Local Governments Comply with the ADA”; to the Committee on the Judiciary.

EC–7420. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the audit of the Telecommunications Development Fund; to the Committee on Commerce, Science, and Transportation.

EC–7421. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “U.S. Coast Guard Vessel Traffic Services (VTS) Systems in New Orleans, Louisiana” (Docket 98–1935) received on October 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7422. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Audit Requirements for State and Local Governments; Audit Requirements for Institutions of Higher Education and Other Non-Profit Organizations” (RIN0655–AA12) received on October 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7423. A communication from the Director of Executive Budgeting and Assistance Management, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Federal Register Notice: Guide for the Federal Register” (Docket FR–4332–T–41) received on October 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7424. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Request for Comments on Effects of Foreign Policy-Based Export Controls" (Docket 980922443–8243–01) received on October 8, 1998; to the Committee on Banking, Housing, and Urban Affairs.
a rule entitled “Atlantic Tuna Fisheries: Atlantic Bluefin Tuna” (I.D. 092298C) received on October 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC-7432. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of F-15 aircraft (DTC 131–98); to the Committee on Foreign Relations.

EC-7433. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of F100–PW–229A engine parts in Norway (DTC 132–98); to the Committee on Foreign Relations.

EC-7434. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed transfer of three Hercules C-130E aircraft from the United Kingdom to the Government of Sri Lanka (RSAT 4–98); to the Committee on Foreign Relations.

EC-7435. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the texts of international agreements other than treaties entered into by the United States (98–150 to 98–154); to the Committee on Foreign Relations.

EC-7436. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of T6-B Molotov Ring Laser Gyro Inertial Navigation System in Mexico (DTC 96–98); to the Committee on Foreign Relations.

EC-7437. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of certain PATRIOT System components (DTC 106–98); to the Committee on Foreign Relations.

EC-7438. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed transfer of technical data and assistance to Spain relative to F100 AEGIS frigates (DTC 115–98); to the Committee on Foreign Relations.

EC-7439. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the manufacture of fire control radar accelerometers for end use on United Kingdom AH–64 Apache helicopters (DTC 123–98); to the Committee on Foreign Relations.

EC-7440. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed transfer of technical data and assistance to Spain relative to F100 AEGIS frigates (DTC 115–98); to the Committee on Foreign Relations.

EC-7441. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of an emergency transfer of AN/ALQ-131 electronic counter-measure pods to the Government of Norway; to the Committee on Foreign Relations.

EC-7442. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Pro-mulgation of Air Quality Implementation Plans: Pennsylvania; Approval of VOC and NOX RACT Determinations for Individual Source” (FRL6174–3) received on October 8, 1998; to the Committee on Environment and Public Works.

EC-7443. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Pro-mulgation of Implementation Plans; Minnesota” (FRL6162–1) received on October 8, 1998; to the Committee on Environment and Public Works.

EC-7444. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Pro-mulgation of Implementation Plans; Tennessee” (FRL6168–4) received on October 8, 1998; to the Committee on Environment and Public Works.

EC-7445. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Pro-mulgation of Implementation Plans; Georgia” (FRL6172–1) received on October 9, 1998; to the Committee on Environment and Public Works.

EC-7446. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Pro-mulgation of State Plans for Designated Facilities for the Control of Volatile Organic Compounds” (FRL6169–6) received on October 8, 1998; to the Committee on Environment and Public Works.

EC-7447. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Extension of Tolerance for Emergency Exemptions” (FRL6037–1) received on October 8, 1998; to the Committee on Environment and Public Works.

EC-7448. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Hexythiazox; Pesticide Tolerances” (FRL6035–2) received on October 8, 1998; to the Committee on Environment and Public Works.

EC-7449. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Mancozeb; Pesticide Tolerances for Emergency Exemptions” (FRL6029–5) received on October 8, 1998; to the Committee on Environment and Public Works.

EC-7450. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Paraquat; Extension of Tolerances for Emergency Exemptions” (FRL6034–7) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7451. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Maleic Hydrazide; Extension of Tolerances for Emergency Exemptions” (FRL6034–8) received on October 2, 1998; to the Committee on Environment and Public Works.

EC-7452. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Paraquat; Extension of Tolerances for Emergency Exemptions” (FRL6032–5) received on October 8, 1998; to the Committee on Environment and Public Works.

EC-7453. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Pro-mulgation of Air Quality Implementation Plans; Maine; Source Surveillance Regula-tions” (FRL6173–3) received on October 8, 1998; to the Committee on Environment and Public Works.

EC-7454. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Pro-mulgation of Air Quality Implementation Plans; Source Surveillance Regulations” (FRL6172–2) received on October 9, 1998; to the Committee on Environment and Public Works.

EC-7455. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Pro-mulgation of Air Quality Implementation Plans; Source Surveillance Regulations” (FRL6171–2) received on October 5, 1998; to the Committee on Environment and Public Works.

EC-7456. A communication from the Secretary of the Department of Transportation, pursuant to law, the Department’s report on operations of the Glen Canyon Dam for Water
to destroy any stock of food or drink that is judged likely to be used by an enemy military force, if due precautions are taken for the safety of the civilian population.

SEC. 4. UNCONDITIONALITY.

The Senate's advice and consent to the ratification of the Amended Mines Protocol is subject to the following understandings, which are included in the United States instrument of ratification and shall be binding upon the President:

(1) INTERNATIONAL COMPLIANCE.—The United States understands that—

(A) any decision by any military commander, military personnel, or any other personnel involved in planning, authorizing, or executing military action shall only be judged on the basis of that person's assessment of the information reasonably available to the United States in the time the action was planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken; and

(B) Article 14 of the Amended Mines Protocol (insofar as it relates to penal sanctions) shall apply only in a situation in which an individual—

(i) knew, or should have known, that his action was prohibited under the Amended Mines Protocol;

(ii) to cause harm to an innocent civilian by such action; and

(iii) knew or should have known, that the person he intended to harm was an innocent civilian.

(2) EFFECTIVE EXCLUSION.—The United States understands that, for the purposes of Article 5(2)(b) of the Protocol, the United States understands that the allocation of responsibilities for landmines in Article 5(2)(b) of the Protocol (insofar as it relates to penal sanctions) to the effective alternative does not mean a tactic to the munition becomes available.

(3) HISTORIC MONUMENTS.—The United States understands that Article 7(1)(c) of the Amended Mines Protocol restricts the possession or use of historic monuments.

(4) LEGITIMATE MILITARY OBJECTIVES.—The United States understands that Article 14 of the Amended Mines Protocol not preclude agreement, in connection with peace treaties or similar arrangements, to allocate responsibilities under that Article in a manner that respects the essential spirit and purpose of the Article.

(5) PEACE TREATIES.—The United States understands that the allocation of responsibilities under Article 5(2)(b) of the Amended Mines Protocol does not preclude the expedient adaptation or adaptation in advance of other uses for use as booby-traps or other devices;

(6) BOOBY-TRAPS AND OTHER DEVICES.—For purposes of subparagraph (B) of Article 2(4) of the Amended Mines Protocol and shall not be considered a “mine” or an “anti-personnel mine” under Article 2(1) or Article 2(3), respectively;

(7) NON-LETHAL CAPABILITIES.—The United States understands that nothing in the Amended Mines Protocol may be construed as restricting or affecting in any way non-lethal weapon technology that is designed to temporarily disable, stun, signal the presence of a person, or carry a military advantage but not to cause permanent incapacity.

(8) INTERNATIONAL JURISDICTION.—The United States understands that Article 14 of the Amended Mines Protocol relating to penal sanctions refer to measures by the authorities of the United States, and not to an international tribunal. The United States understands that the effective alternative does not mean a tactic to the munition becomes available.

(9) TECHNICAL COOPERATION AND ASSISTANCE.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;

(b) the United States understands that—

(i) U.S. EFFORTS.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;

(b) the United States understands that—

(i) U.S. EFFORTS.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;

(b) the United States understands that—

(i) U.S. EFFORTS.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;

(b) the United States understands that—

(i) U.S. EFFORTS.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;

(b) the United States understands that—

(i) U.S. EFFORTS.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;

(b) the United States understands that—

(i) U.S. EFFORTS.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;

(b) the United States understands that—

(i) U.S. EFFORTS.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;

(b) the United States understands that—

(i) U.S. EFFORTS.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;

(b) the United States understands that—

(i) U.S. EFFORTS.—The United States understands that—

(A) no provision of the Protocol may be construed as affecting the discretion of the United States to refuse assistance or to restrict or deny permission for the export of equipment, material, or scientific or technological advice, as defined in the Amended Mines Protocol in any international tribunal to prosecute a United States citizen for a violation of the Protocol or the Convention on Conventional Weapons;
in negotiations on any treaty containing an arms control provision. United States negotiators should not agree to any provision that would have the effect of inhibiting the United States from pursuing arms control agreements from the arms control provisions of that treaty in a timely fashion. The Senate, by unanimous consent, amends clause 10 of section 2 of the Convention on Conventional Weapons as follows:

(7) PROHIBITION ON DE FACTO IMPLEMENTATION OF THE OTTAWA CONVENTION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the President will not limit the consideration of United States anti-personnel mines or mixed anti-tank systems solely to those that comply with the Ottawa Convention; and

(B) in pursuit of alternatives to United States anti-personnel mines, or mixed anti-tank systems, the United States shall seek to identify, adapt, modify, or otherwise develop only those technologies that—

(i) are intended to provide military effectiveness equivalent to that provided by the relevant anti-personnel mine, or mixed anti-tank system; and

(ii) would be affordable.

(8) CERTIFICATION WITH REGARD TO INTERNATIONAL TRIBUNALS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that with respect to the Amended Mines Protocol, the Convention on Conventional Weapons, or any future protocol or amendment thereto, the United States shall not recognize the jurisdiction of any international tribunal over the United States or any of its citizens.

(9) TACTICS AND OPERATIONAL CONCEPTS.—It is the sense of the Senate that development, adaptation, or modification of an existing or new technical or operational concept, and itself, is unlikely to constitute an acceptable alternative to anti-personnel mines or mixed anti-tank systems.

(10) FINDING REGARDING THE INTERNATIONAL HUMANITARIAN CRISIS.—The Senate finds that—

(A) the grave international humanitarian crisis associated with anti-personnel mines has been created by the indiscriminate use of mines that do not meet or exceed the specifications on detectability, self-destruction, and safety. The Senate shall enter into force with respect to the United States only pursuant to the treaty-making power of the President, by and with the advice and consent of the Senate, as interpreted by the United States.

(B) the United States instrument of ratification, as interpreted by the United States, as amended by the United States instrument of ratification, as interpreted by the United States.

(11) APPROVAL OF MODIFICATIONS.—The Senate reaffirms the principle that any amendment or modification to the Amended Mines Protocol other than an amendment or modification solely of a minor technical or administrative nature shall enter into force with respect to the United States only pursuant to the treaty-making power of the President, by and with the advice and consent of the Senate.

(12) FURTHER ARMS REDUCTIONS OBLIGATIONS.—By Mr. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN):

S. 2617. A bill to authorize the acquisition of the Valles Caldera currently managed by the Baca Land and Cattle Company, to provide for an effective and efficient management program for this resource within the Department of Agriculture through the private sector, and for other purposes; to the Committee on Energy and Natural Resources.

(13) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in Article II, section 2, clause 2 of the Constitution of the United States.

Before I get into the details of this legislative proposal, let me spend a few moments discussing the science of climate change.

Human influence on the global climate in an extraordinarily complex matter that has undergone more than a century of research. Indeed, in an 1896 lecture delivered to the Stockholm Physics Society by the Nobel Prize-winning chemist, Svante Arrhenius, it was predicted that large increases in carbon dioxide (CO₂) would result in a corresponding warming of the globe.
us at different intervals over the last one hundred years, since Mr. Arrhenius identified the warming effects of CO$_2$.

In 1924, a U.S. physicist speculated that industrial activity would double atmospheric CO$_2$ in five hundred years, around 2074. Current projections, however, call for a doubling sometime before 2050—some four hundred years earlier than predicted just seventy years ago.

In 1967, scientists from the Scripps Institute of Oceanography reported for the first time that much of the CO$_2$ emitted into the atmosphere is not absorbed by the oceans as some had argued, leaving significant amounts in the atmosphere. They are said to have called carbon dioxide emissions “a large-scale geophysical experiment” with the Earth’s climate.

In 1967, the first reliable computer simulation calculated that global average temperatures might rise by more than four degrees Fahrenheit when atmospheric CO$_2$ levels are double that of preindustrial times. In 1985, a conference sponsored by the United Nations Environment Program (UNEP), the World Meteorological Organization (WMO), and the International Council of Scientific Unions forged a consensus of the international scientific community on the issue of climate change. The conference report warned that some future warming appears inevitable due to past emissions, regardless of future actions, and recommended consideration of a global treaty to address climate change.

In an ice core from Antarctica, analyzed by French and Russian scientists, revealed an extremely close correlation between CO$_2$ and temperature going back more than one hundred thousand years. In 1990, an appeal signed by forty-nine Nobel prize winners and seven hundred members of the National Academy of Science stated, “There is broad agreement within the scientific community that amplification of the Earth’s natural greenhouse house effect by the buildup of various gases introduced by human activity has the potential to produce dramatic changes in climate . . . only by taking action now can be ensure that future generations will not be put at risk.”

Also in 1990, seven hundred and forty-seven participants from one hundred sixteen countries took part in the Second world Climate Conference. The conference statement reported that, “. . . if the increase of greenhouse gas concentrations is not limited, the predicted climate change would place stresses on natural and social systems unprecedented in the past ten thousand years.”

Finally, Mr. President, in 1995, the Intergovernmental Panel on Climate Change, representing the consensus of climate scientists worldwide, concluded that “. . . the balance of evidence suggests that there is a discernible human influence on global climate.”

This last development is significant, because the overwhelming majority of climate scientists concluded, for the first time, that man is influencing the global climate system. That conclusion, while controversial in some quarters, was endorsed unanimously by the governments of the ninety-six countries involved in the panel’s efforts.

Are the predictions of climate change incorrect? They are not. The predictions of climate change are indeed based on numerous variables. Although scientists are improving the state of their knowledge at a rapid pace, we still have a lot to learn about the role of the sun, clouds and oceans, for example.

The question is, will we ever have absolute certainty? Will we ever be able to eliminate all of the variables? The overwhelming majority of independent, peer-reviewed scientific studies indicate that we do not have such a luxury. By the time we finally attain absolute certainty, it would likely take centuries to reverse atmospheric damage and oceanic warming.

Mr. President, you are not alone in this thinking. There are an increasing number of business leaders in our country who have arrived at the same conclusion that we need to act swiftly.

In a “dear colleague” letter sent out this week, Mr. Gore repeated a remarkable statement issued by an impressive group of companies that have joined with the newly established Pew Center on Climate Change. American Electric Power, Boeing, BP Amoco, Lockheed Martin, 3M, Sun, United Technologies, Toyota, Weyerhaeuser, and several others said that, “we accept the views of most scientists that enough is known about the science and environmental impacts of climate change for us to take actions to address its consequences.”

The legislation to be introduced today by Senator MACK, Senator LIEBERMAN and I proposes an exciting framework that would appropriately recognize the voluntary reduction efforts that combat climate change. While the climate debate will indeed continue over the next few years, we strongly believe that there is a voluntary, incentive-based approach which can be implemented now.

Congressional approval of this approach, which the three of us and others will work for early next year, will provide the certainty necessary to encourage companies to move forward with practical, near-term emission reductions. Specifically, this legislation would provide a mechanism by which the President can enter into binding greenhouse gas reduction agreements with entities operating in the United States. Once executed, these agreements would provide credit for voluntary greenhouse gas reductions effected by those entities before 2008, or whenever we might have an imposition of any domestic or international emission reduction requirements.

A “credit” program is designed to work within the framework of whatever greenhouse gas control requirement may eventually become applicable within the United States. The credits would be usable beginning in the first five-year budget period (2008-2012) under the Kyoto Protocol, if the Kyoto Protocol is ratified. If the Protocol is not ratified, and we end up with a domestic program to regulate or control greenhouse gas emissions, the credits would be usable in that program.

This sort of approach makes sense for a wide variety of reasons. Encouraging reductions can begin to stabilize the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the potential environmental risks of continued warming. Given the longevity of many climate gases, which continue to trap heat in the atmosphere for a century or more, it just makes sense to encourage practical actions now.

By guaranteeing companies credit for voluntary early reductions, the bill would allow companies to push voluntary reductions for steep reduction requirements or excessive costs in the future. For companies that want to reduce their greenhouse gas emissions, providing credit for action now adds years to any potential compliance schedule, allowing companies to delay costs over broader time periods. A focus on early reductions can help stimulate the American search for strategies and technologies that are needed worldwide. Development and deployment of technologies can improve American competitiveness in the $300 billion dollar global environmental marketplace.

This “credit” program may also make the greenhouse gas reductions achieved before regulations are in place financially valuable to the companies who make such reductions. Given the likely inclusion of market based approaches to any eventual domestic regulatory requirements, similar to the successful acid rain program of the 1990 Clean Air Act, credit earned could be traded or sold to help other companies manage their own reduction efforts.

Under a “no credit” approach, the status quo, it is more likely that early reduction companies will be penalized if greenhouse gas reductions are ultimately required, because their competitors who wait to reduce will get credit for later reductions. Such a “no credit” approach will perpetuate incentives to delay investments until emissions reductions would be credited.

In anticipation of a potential global emissions market, decisions re being made now by entrepreneurial companies and countries. For example, Russia and Japan have already concluded a trade of greenhouse gas emission credits. Private companies such as Niagara-Mohawk and Canada-based Suncor are moving forward with cross-boundary trading arrangements. These companies, such as British Petroleum, AEP, and PacificCorp are already implementing agreements in Central and
South America—sequestering carbon and developing credits against emissions—by protecting rain forests.

Mr. President, America can and should reward companies that take such positive steps to position themselves, not only for the environmental and economic future.

On the international side, passage by the U.S. Congress of a program to help stimulate early action will be clear example of American leadership and responsibility. They argue that developing countries should not be asked to take steps until the U.S. begins to move forward. This bill can work directly to change that situation, therefore removing a barrier to essential developing nations.

There it is, Mr. President. We are here today because we believe that climate change presents a serious threat. We believe it makes sense to get started now. And, as many leading Americans can already believe that there are sensible, fair and voluntary methods to get on the right track.

We encourage our colleagues to use the time between now and next January to review this legislation carefully. We are open to suggestions. Most importantly, we are looking for others to join us in this effort.

Ms. MACK. Mr. President, as an original cosponsor of the Credit for Early Action Act, I rise to congratulate Senator CHAFEE on its introduction, as well as the other original cosponsor, Senator LIEBERMAN, and to make several points about the bill.

The purpose of the act is simple. It is to encourage and reward voluntary actions to reduce emissions of “greenhouse gases” such as carbon dioxide. It would not require actions, but it would provide encouragement in the form of credit, credit that could be used by companies to manage future regulatory requirements, or in a market-based approach, traded or sold to other companies as they worked to meet their own obligations.

Given the uncertainty that surrounds the discussion of greenhouse gases and global warming, I can understand why some may question the need for such a bill. As one who is not convinced that we understand this issue well enough, I can understand that question. In fact, it is precisely because of the uncertainty that I think such a bill makes sense.

Of course there is a great deal of uncertainty surrounding such possible results, and frankly, as I said, I am not convinced that we know enough yet. The complexities and uncertainties are associated with trying to understand the vast interactions of our climate, our atmosphere and our human impact on

both, are enormous. And the consequences of actions targeted at changing our patterns of energy use can be dramatic.

But uncertainty cuts two ways, and the possibility always exists that some of these projections about impacts could be more right than wrong. Perhaps then it makes sense to provide some appropriate encouragement, so that those who want to invest in improved efficiency, those who want to find new and cleaner and more energy efficient and power production cleaner, those companies can receive some encouragement, not based on government fiat or handout, but based on getting credit for their own initiative and actions.

The environmental result will likely be some lessening of the potential problems associated with possible global warming, and that just makes sense.

There is, of course, another uncertainty that gives me pause as well, and that serves as another strong reason for my interest in this bill. It is clear to me today that there is no desire on the part of this Congress to legislate requirements on carbon dioxide or any of the other “greenhouse gases.” I think that is the correct position.

But I cannot know today what some future Congress, perhaps a decade away, might decide to do. Perhaps the science will become more compelling. Perhaps the majority will shift back to a more regulatory inclined party. Perhaps a future Senate will decide to ratify the Kyoto Protocol. Perhaps a future administration and a future majority will combine to put a regulatory structure in place that will require substantial reductions of these gases. And while we may oppose such action today, we cannot know the outcome of this future debate.

Given this regulatory uncertainty, I think a compelling argument can be made to provide protection for companies who act now to protect the environment, against the possibility of future requirements. What this bill will do is just that. By allowing companies to earn credit for actions that they take over the next few years, the bill will make sure that if a regulator comes to see them in the future, they can say, “I already did my part.” Companies can make decisions based on their own best interest, they can work to improve efficiency and reduce waste. And if this bill is passed and companies receive credit for those actions against any future regulatory controls on greenhouse gases, that seems like a good idea to me.

In closing, Mr. President, I again want to congratulate Senator CHAFEE, along with our other original cosponsor Senator LIEBERMAN, for this thoughtful, balanced approach to the uncertainty presented by the climate change issue. I am proud to be an original cosponsor of this bill, and I want to urge my colleagues to review this approach so that we can begin to move forward in earnest in the next Congress.

Mr. LIEBERMAN. Mr. President, I am delighted to join today with my colleagues Senator CHAFEE, the chairman of the Environment and Public Works Committee, and Senator MACK in introducing this legislation. It will provide an incentive for companies who act now to reduce their emissions of greenhouse gases. This is a voluntary, market-based approach which is a win-win situation both for American business and the environment. Enactment of this legislation will provide the certainty necessary to encourage companies to move forward with emission reductions now. I’m particularly pleased that the legislation grows out of principles developed in a dialog between the Environmental Defense Fund and a number of major industries.

The point of this legislation is simple. Many companies want to move forward to reduce their greenhouse gas emissions. They don’t want to wait until legislation requires them to make these reductions. For some companies reducing greenhouse gases makes good economic sense because adopting cost-effective solutions can actually save them money by improving the efficiency of their operations. Companies recognize if they reduce their greenhouse gas emissions now they will be able to add years to any potential compliance schedule, allowing them to spread their costs over broader time periods. Acting now can help U.S. companies protect themselves against the potential for significant reductions that may be required in the future. This bill ensures they will be credited in future reduction proposals for action now.

Early action by U.S. companies will also have an enormous benefit for the environment. Early reductions can begin to slow the rate of buildup of greenhouse gases and climate change. They will be helping to minimize the environmental risks of continued global warming. Given that once emitted, many climate change gases continue to trap heat for centuries or more in the atmosphere, it just makes sense to encourage practical action now.

Climate change is neither an abstraction nor the object of a science fiction writer’s imagination. It is real and affects us all. More than 2,500 of the world’s best scientific and technical experts have linked the increase of greenhouse gases to at least some of the increase in sea level, temperature and rainfall experienced worldwide in this century. Last year was the warmest year on record, and 9 of the last 11 years were among the warmest ever recorded.

The point of this legislation is to provide an incentive for companies that want to make voluntary early reductions in emissions of greenhouse gases to guarantee that these companies will receive credit, once binding requirements begin, for voluntary reductions they have made before 2008. These
credits will enable US companies to add years to any potential compliance schedule for reductions, allowing them to spread costs over broader time periods. These credits may also be financially valuable to companies who make the reductions. Companies even likely could be encouraged to help other companies manage their own reduction requirements. A focus on early reductions can also help stimulate the search for and use of new, innovative strategies and technologies that are needed to help companies both in this country and worldwide meet their reduction requirements in a cost-effective manner. Development of such strategies and technologies can improve American competitiveness in the more than $300 billion global environmental marketplace.

I'm pleased that this legislation builds on section 1605(b) of the Energy Policy Act which allowed companies to voluntarily record their emissions in greenhouse gas emissions, which we worked hard to include in the Energy Policy Act.

Mr. President, the debate about climate change is too often vested—and I believe wrongly so—in false choices between scientific findings, common sense, business investments and environmental awareness. The approach of this bill again demonstrates that these are not mutually exclusive choices, but highly compatible goals.

By Mr. MCCAiN.

S. 2618. a bill to require certain multilateral development banks and other leading institutions to implement independent third party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

THE FAIR COMPETITION IN FOREIGN COMMERCE ACT OF 1998

By Mr. MCCAiN. Mr. President, I am proud to introduce the Fair Competition in Foreign Commerce Act of 1998, to address the serious problem of waste, fraud and abuse, resulting from bribery and corruption in international development projects. This legislation will set conditions for US funding through multilateral development banks. These conditions will require the country receiving aid to adopt substantive procurement reforms, and independent third-party procurement monitoring of their international development projects.

During the cold war, banks and governments often looked the other way as pro-western leaders in developing countries treated national treasuries as their personal treasure troves. Information technologies and the resulting global economy have transformed the world in which we live into a smaller and smaller community. For example, economic turmoil in Indonesia hits home on Wall Street. Allegations of misconduct in the White House negatively affect the American economy, which causes capital flight to other nation’s stock exchanges. In today’s increasingly interdependent global economy, nations are ill-advised to ignore corruption and wrongdoing in neighboring countries.

The U.S. is a vital part of the global economy. We cannot afford to look the other way when we see bribery and corruption running rampant in other countries. Bribery and corruption abound undermine the U.S. goals of promoting democracy and accountability, fostering economic development and trade liberalization, and achieving a level playing field throughout the world.

Developing nations desperately need foreign economic assistance to break the devastating cycle of poverty and dependence.

The United States is increasingly called upon to lead multilateral assistance efforts through its participation in various lending institutions. However, it is critical that we take steps to ensure that the American taxpayer dollars are being used appropriately. The Fair Competition in Foreign Commerce Act of 1998 is designed to decrease the stifling effects of bribery and corruption in international development contracts. The Act will achieve this objective by mandating that multilateral lending institutions require that nations receiving US economic assistance subject their international development projects to independent third-party procurement monitoring, and other substantive procurement reforms.

By decreasing bribery and corruption in international development procurements, this legislation will (1) enable US businesses to become more competitive when bidding against foreign firms which secure government contracts through bribery and corruption; (2) encourage additional direct investment to developing nations, thus increasing their economic growth, and (3) increase opportunities for US businesses to export to these nations as their economies expand and mature.

Multilateral lending efforts are only effective in spurring economic development if the funds are used to further the intended development projects. The American taxpayers make substantial contributions to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund. These contributions provide significant funding for major international development projects. Unfortunately, these international development projects are often plagued by fraud and corruption, waste and inefficiency, and other misuse of funding. The inefficient use of valuable taxpayer dollars is bad for the U.S. and the nation receiving the economic assistance. When used for its intended purpose, foreign economic aid yields short and long term benefits to US businesses. Direct foreign aid assists developing nations to develop their infrastucture. A developed infrastucture is vital to creating and sustaining a modern dynamic economy. Robust economic growth is critical for US businesses to export their goods and services. Exports are key to the US role in the constantly expanding and increasingly competitive global economy. Emerging economies of today may become our trading partners of tomorrow. However, foreign economic assistance will only promote economic development if it is used for its intended purpose, and not to line the pockets of foreign bureaucrats and their war-connected political allies.

The current laws and procedures designed to detect and deter corruption after the fact are inadequate and meaningless. This bill seeks to ensure that US taxpayers’ hard-earned dollars contributed to international projects are appropriately spent and eliminating bribery and corruption before they can taint the integrity of these vital international projects. Past experience illustrates that it is ineffective to attempt to reverse waste, fraud, and abuse in large scale foreign infrastructure projects, once the abuse has already begun. Therefore, it is vital to detect the abuses before they occur.

The Fair Competition in Foreign Commerce Act of 1998 requires the United States Government, through its participation in the multilateral lending institutions and in its disbursement of non-humanitarian foreign assistance funds, to: (1) require the recipient international financial institution to adopt an anti-corruption plan that requires the aid recipient to use independent third-party procurement monitoring services, at each stage of the procurement process, to ensure openness and transparency in government procurements, and (2) to require the recipient nation to institute specific strategies for minimizing corruption and maximizing transparency in procurements at each stage of the procurement process.

If these criteria are not met, the legislation directs the Secretary of the Treasury to instruct the United States Executive Directors of the various international development banks to use the voice and vote of the United States to oppose the lending institution from providing the funds to the nations requesting economic aid which do not satisfy the procurement reforms criteria. This Act has two important exceptions. First, it does not apply to assistance to meet urgent humanitarian needs such as providing food, medicine, disaster, and refugee relief. Second, it also permits the President to waive the funding restrictions with respect to a particular recipient if making such funds available is important to the national security interest of the United States.
Independent third-party procurement monitoring is a system where an independent third-party conducts a program to eliminate bias, to promote transparency and open competition, and to minimize fraud and corruption, waste and inefficiency and other misuse of funds in international procurements. The system does this through an independent evaluation of the technical, financial, economic and legal aspects of each stage of a procurement, from development and issuance of technical specifications, bidding documents, evaluation reports and contract preparation, to the delivery of goods and services. This monitoring will take place throughout the entire term of the international development project.

Mr. President, this system has worked for other governments. Procurement reforms and third-party procurement monitoring resulted in 90-95% savings in recent procurements. For example, the Government of Guatemala experienced an overall savings of 27% to 29% of the budget on projects that are deliberately beyond the required specification needed to meet the objective. Independent third-party procurement monitoring also improves transparency and openness in the procurement process. Increased transparency helps to minimize fraud and corruption, waste and inefficiency, and other misuse of funding, and promotes competition, thereby strengthening international trade and foreign commerce.

Mr. President, bribery and corruption have caused serious problems. Bribes and corruption have become a serious problem. A World Bank survey of 3,600 firms in 69 countries showed 40% of businesses paying bribes. More startling is that Germany still permits its companies to take a tax deduction for bribes. A recent report by Commerce Secretary Daley sums up the serious impact of bribery and corruption upon American businesses ability to compete for foreign contracts:

Since mid-1994, foreign firms have used bribery to win approximately 180 commercial contracts valued at nearly $80 billion. We estimate that over the past year, American companies lost at least 50 of these contracts, valued at $15 billion. And since many of these contracts were for groundbreaking projects—the kind that produces exports for years to come—the ultimate cost could be much higher.

Exports will continue to play an increasing role in our continued economic expansion, We can ill afford to allow any artificial impediments to our ability to export. Bribery and corruption, significantly hinder American businesses' ability to compete for lucrative overseas government contracts. In short, bribe on a contract is said to raise its price. Jobs equate to more money in hard-working Americans' pockets. More money in Americans' pockets means more money for Americans to save and invest in their futures.

Bribery and corruption also harm the country receiving the aid because bribery and corruption often inflate the cost of international development projects. For example, state contractor's help foreign projects that are deliberately beyond the required specification needed to meet the objective is a common example of waste, fraud, and abuse in international development projects. Bribery and corruption create "lose lose" situation for the U.S. and developing nations.

The U.S. recognizes the damaging effects bribery and corruption have at home and abroad. The U.S. continues to combat foreign corruption, waste, and abuse on many fronts: from prohibiting U.S. firms from bribing foreign officials, to leading the anti-corruption efforts in the United Nations, the Organization of American States, and the Organization for Economic Cooperation and Development ("OECD"). The U.S. was the first country to enact legislation (the Foreign Corrupt Practices Act) that prohibits U.S. nationals and corporations from bribing foreign officials. It does nothing to prevent foreign nationals and corporations from bribing foreign officials to obtain foreign contracts. Valuable taxpayer resources are often diverted or squandered because of corrupt officials or the use of non-transparent specifications, contract requirements and the like in international procurements for goods and services. Such corruption practices also minimize competition and prevent the full value of the goods and services for which it bargained. In addition, despite the importance of international markets to U.S. goods and services providers, many U.S. companies refuse to participate in international procurements that may be corrupt.

This legislation is designed to provide a mechanism to ensure, to the extent possible, the integrity of the U.S. contribution to the multilateral lending institutions and other non-humanitarian U.S. foreign aid. Corrupt international procurements, often funded by these multilateral banks, weaken democratic institutions and undermine the very opportunities that multilateral lending institutions were founded to promote. This bill will encourage and support the development of transparent governance and open competition, thereby strengthening international trade and foreign commerce.

Mr. President, I am committed to combating the waste, fraud and abuse resulting from bribery and corruption in international development projects. Procurement reforms and independent procurement monitoring are key to policing complicated international procurements, which are often plagued by corruption, inefficiency and other problems. These provide for valuable large-scale international development projects.
and the efficient use of American economic assistance.

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. 2618

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 “Fair Competition in Foreign Commerce Act”.

SECTION 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) The United States makes substantial contributions and provides significant funding for major international development projects through the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the African Development Bank, the North American Development Bank, the Inter-American Investment Corporation, the Development Bank of the Reconstruction and Development, the Inter-American Development Bank, the International Finance Corporation, the North American Development Bank, the African Development Bank, and other multilateral lending institutions.

(2) These international development projects are often plagued with fraud, corruption, waste, inefficiency, and misuse of funding.

(3) Fraud, corruption, waste, inefficiency, misuse, and abuse are major impediments to competition in foreign commerce throughout the world.

(4) Identifying these impediments after they occur is inadequate and meaningless.

(b) STRATEGIC PLAN.—The strategic plan shall include an instruction by the Secretary of the Treasury to the United States Executive Director of each multilateral development bank and lending institution to use the voice and vote of the United States to oppose the use of funds appropriated or made available by the United States for any non-humanitarian assistance, until—

(1) the recipient international financial institution has adopted an anticorruption plan that requires the use of independent third-party procurement monitoring services and other international procurement institutions that promote transparency and openness in each stage of the procurement process does not render any paid salaries to the recipient country institutes specific strategies for minimizing corruption and maximizing transparency in government procurement; and

(2) the recipient country institutes specific strategies for minimizing corruption and maximizing transparency in each stage of the procurement process.

(c) ANNUAL REPORTS.—Not later than June 29th of each year, the Secretary of the Treasury shall report to Congress on the progress made in implementing procurement reforms made by each multilateral development bank and lending institution and each country that received assistance multilateral development bank or lending institution during the preceding year.

(d) RESTORATION ASSISTANCE.—Notwithstanding any other provision of law, no funds appropriated or made available for non-humanitarian foreign assistance programs shall be obligated or expended by the Agency for International Development, may be expended for those programs unless the recipient country, multilateral development bank or lending institution has demonstrated that—

(1) procurement practices are open, transparent, and free of corruption, fraud, inefficiency, and other misuse of funds.

B) promote transparency and cooperation

C) minimize fraud, corruption, waste, inefficiency, and other misuse of funds.

in international procurement through independent evaluation of the financial, economic, and legal aspects of the procurement process.

(3) INDEPENDENT PROCUREMENT MONITORING.—The term “independent procurement monitoring” means the person monitoring the procurement process does not render any paid services to the private industry and is neither owned or controlled by any government or government agency.

(4) EACH STAGE OF PROCUREMENT.—The term “each stage of procurement” means the development and issuance of technical specifications, bidding documents, evaluation reports, contract preparation, and the delivery of goods and services.

(b) MULTILATERAL DEVELOPMENT BANKS AND OTHER LENDING INSTITUTIONS.—The term “multilateral development banks and other lending institutions” means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Bank.

SEC. 4. REQUIREMENTS FOR FAIR COMPETITION IN FOREIGN COMMERCE.

(a) In General.—Within 180 days after the date of enactment of this Act, the Secretary of the Treasury shall transmit to the President and to appropriate committees of Congress a report for requiring the use of independent third-party procurement monitoring and other international procurement reforms relating to the United States participation in multilateral development banks and other lending institutions.

(b) STRATEGIC PLAN.—The strategic plan shall include an instruction by the Secretary of the Treasury to the United States Executive Director of each multilateral development bank and lending institution to use the voice and vote of the United States to oppose the use of funds appropriated or made available by the United States for any non-humanitarian assistance, until—

(1) the recipient international financial institution has adopted an anticorruption plan that requires the use of independent third-party procurement monitoring services and other international procurement institutions that promote transparency and openness in government procurement; and

(2) the recipient country institutes specific strategies for minimizing corruption and maximizing transparency in each stage of the procurement process.

(c) ANNUAL REPORTS.—Not later than June 29th of each year, the Secretary of the Treasury shall report to Congress on the progress made in implementing procurement reforms made by each multilateral development bank and lending institution and each country that received assistance multilateral development bank or lending institution during the preceding year.

(d) RESTORATION ASSISTANCE.—Notwithstanding any other provision of law, no funds appropriated or made available for non-humanitarian foreign assistance programs shall be obligated or expended by the Agency for International Development, may be expended for those programs unless the recipient country, multilateral development bank or lending institution has demonstrated that—

(1) procurement practices are open, transparent, and free of corruption, fraud, inefficiency, and other misuse of funds.

B) promote transparency and cooperation

C) minimize fraud, corruption, waste, inefficiency, and other misuse of funds.

in international procurement through independent evaluation of the financial, economic, and legal aspects of the procurement process.

(3) INDEPENDENT PROCUREMENT MONITORING.—The term “independent procurement monitoring” means the person monitoring the procurement process does not render any paid services to the private industry and is neither owned or controlled by any government or government agency.

(4) EACH STAGE OF PROCUREMENT.—The term “each stage of procurement” means the development and issuance of technical specifications, bidding documents, evaluation reports, contract preparation, and the delivery of goods and services.

(b) MULTILATERAL DEVELOPMENT BANKS AND OTHER LENDING INSTITUTIONS.—The term “multilateral development banks and other lending institutions” means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank, the Inter-American Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Bank.

SEC. 5. EXCEPTIONS.

(a) PROCUREMENT BY U.S. GOVERNMENT.—In no case shall the term “procurement by a foreign government agency” mean—

(1) procures for the United States government.

(2) procures for the United States government.

(3) procures for the United States government.

(b) OTHER EXCEPTIONS.—Section 4 shall not apply with respect to assistance to—

(1) meet urgent humanitarian needs (including providing food, medicine, disaster, and refugee relief); and

(2) facilitate democratic political reform and rule of law activities.

(c) OTHER EXCEPTIONS.—Section 4 shall not apply with respect to assistance to—

(1) meet urgent humanitarian needs (including providing food, medicine, disaster, and refugee relief); and

(2) facilitate democratic political reform and rule of law activities.

By Mr. DASCHLE:

S. 2619. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Degartment of Veterans Affairs medical facilities; to the Committee on Veterans’ Affairs.

THE VETERANS’ ACCESS TO EMERGENCY HEALTH CARE ACT OF 1998

Mr. DASCHLE. Mr. President, as we near the end of the 105th Congress, I would again like to voice my frustration about the fact that the United States Senate failed to consider and pass important legislation this year that could have greatly benefited the American people. A road typically leading to adjournment is littered with legislation that should have been considered, passed and enacted long ago, including efforts to prevent teen smoking, modernize our public schools, and increase the minimum wage.

I am particularly disappointed that my colleagues on the other side of the aisle prevented the United States Senate from considering managed care reform legislation. Yesterday, Senate Republicans even prevented us from proceeding to their own HMO reform bill.

Time and again, the American people have said they want a comprehensive, enforceable Patients’ Bill of Rights. Toward that goal, several of my Democratic colleagues and I introduced the Patients’ Bill of Rights Act of 1998. That legislation addressed a growing concern among the American people about the quality of care delivered by health maintenance organizations. Despite enormous public support for HMO reform, Democratic efforts to consider the Patients’ Bill of Rights were stymied at every turn.

For months, it has been my intention to offer an amendment to the HMO reform legislation regarding a long-standing deficiency in veterans’ access to emergency health care. I was prepared to do so yesterday. Since the Senate was again precluded from debating managed care reform, however, I would like to call attention to this matter before the Congress adjourns by introducing the Veterans’ Access to Emergency Health Care Act of 1998 as a separate bill. I hope my colleagues will
support this legislation when I introduced it again in the 106th Congress, when I am confident the United States Senate will finally have the opportunity to consider meaningful HMO reform legislation.

The problem addressed in this bill stems from the fact that veterans who rely on the Department of Veterans Affairs (VA) for health care often do not receive reimbursement for emergency medical care they receive at non-VA facilities. According to the VA, veterans may only be reimbursed by the VA for emergency care at a non-VA facility that was not pre-authorized if all of the following criteria are met:

First, care must have been rendered for a medical emergency of such nature that any delay would have been life-threatening; second, the VA or other federal facilities must not have been feasibly available; and, third, the treatment must have been rendered for a service-connected disability, a condition associated with a service-connected disability, or for any disability of a veteran who has a 100-percent service-connected disability.

Many veterans who receive emergency health care at non-VA facilities are at or above the poverty level. Unless they are 100-percent disabled, however, they generally fail to meet the third criterion because they have suffered heart attacks or other medical emergencies that were unrelated to their service-connected disabilities. Considering the enormous costs associated with emergency health care, current law has been financially and emotionally devastating to countless veterans with limited income and no other health insurance. The bottom line is that veterans are forced to pay for emergency care out of their own pockets until they can be stabilized and transferred to VA facilities.

During medical emergencies, veterans often have a say about whether they should be taken to a VA or non-VA medical center. Even when they specifically ask to be taken to a VA facility, emergency medical personnel often transport them to a nearby hospital instead because it is the closest facility. In many emergencies, that is the only sound medical decision to make. It is simply unfair to penalize veterans for receiving emergency medical care at non-VA facilities. Veterans were asked to make enormous sacrifices and are entitled to expect that we will not turn our backs on them during their time of need.

There should be no misunderstanding that this is a widespread problem that affects countless veterans in South Dakota and throughout the country. I would like to cite just three examples of veterans being denied reimbursement for emergency care at non-VA facilities in western South Dakota.

The first involves Edward Sanders, who is a World War II veteran from Custer, South Dakota. On March 6, 1994, Edward was taken to the hospital in Custer because he was suffering chest pains. He was monitored for several hours before a doctor at the hospital called the VA Medical Center in Hot Springs and indicated that Edward was in need of emergency services. Although he was repeatedly told to be taken to a VA facility, he was transported by ambulance to Rapid City Regional Hospital, where he underwent a cardiac catheterization and coronary artery bypass grafting. Because the emergency did not meet the criteria I mentioned previously, the VA did not reimburse Edward for the care he received at Rapid City Regional. His medical bills totaled more than $50,000.

On May 17, 1997, John Lind suffered a heart attack while he was at work. John is a Vietnam veteran exposed to Agent Orange who served his country for 14 years until he was discharged in 1981. John lives in Rapid City, South Dakota, and he points out that he was charged $20,000 in medical bills. Although he filed a claim with the VA for reimbursement, he was turned down because the emergency was not related to his service-connected disability.

Just over one month later, Delmer Paulson, a veteran from Quinn, South Dakota, suffered a heart attack on June 26, 1997. Since he had no other health care insurance, he asked to be taken to the VA Medical Center in Fort Meade, but he was semi-unconscious, and emergency medical personnel transported him to Rapid City Regional. After 4 days in the non-VA facility, John incurred nearly $20,000 in medical bills. He filed a claim with the VA for reimbursement, but he was semi-unconscious, and emergency medical personnel transported him to Rapid City Regional. Even though Delmer was there for just over a day before being transferred to Fort Meade, he was charged with almost a $20,000 medical bill. Again, the VA refused to reimburse Delmer for the unauthorized medical care because the emergency did not meet VA criteria.

The Veterans’ Access to Emergency Health Care Act of 1998, which I am introducing today, would address this serious problem. It would authorize the VA to reimburse veterans enrolled in the VA health care system for the cost of emergency care or services received in non-VA facilities when there is a “serious threat to the life or health of a veteran.” Rep. LANE EVANS has introduced identical legislation in House of Representatives.

Although I am extremely disappointed that the United States Senate did not debate meaningful managed care reform legislation this year, I am hopeful the American people will continue to urge their elected representatives to pass a comprehensive, enforceable Patients’ Bill of Rights early next year. I am proudly hopeful that any meaningful HMO reform legislation will address this serious deficiency in veterans’ access to emergency health care. I look forward to continuing to work with my colleagues on both sides of the aisle to ensure that veterans receive the health care they deserve.

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:

SEC. 1. SHORT TITLE.

This Act may be cited as the “Veterans’ Access to Emergency Health Care Act.”

SEC. 2. DEPARTMENT OF VETERANS AFFAIRS ENROLLMENT SYSTEM DECLARED TO BE A HEALTH CARE PLAN.

Section 1705 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(a) Enrollment system under subsection (a) is a health care plan, and the veterans enrolled in that system are enrollees and participants in a health care plan.”

SEC. 3. EMERGENCY HEALTH CARE FACILITIES FOR ENROLLED VETERANS.

(a) CONTRACT CARE.—Section 1703(a)(3) of title 38, United States Code, is amended by inserting “who is enrolled under section 1705 of this title or who is” after “health of a veteran”.

(b) DEFINITION OF MEDICAL SERVICES.—Section 1701(6) of such title is amended—

(1) by striking out “and” at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “and”;

(3) by inserting after subparagraph (B) the following new subparagraph:

“(C) emergency care reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title.”

(c) REMUNERATION OF EXPENSES FOR EMERGENCY CARE.—Section 1728(a)(2) of such title is amended—

(1) by striking out “or” before “(D)” and;

(2) by inserting before the semicolon at the end of subparagraph (B) the following: “or (E) for any medical emergency which poses a serious threat to the life or health of a veteran enrolled under section 1705 of this title be made with respect to such treatment under part A or part B of the Medicare program and after any payment that may be made with respect to such treatment by a third-party insurance provider.”

(d) PAYMENT PRIORITY.—Section 1705 of such title, as amended by section 2, is further amended by adding at the end the following new subsection:

“(e) The Secretary shall require in a contract under section 1703(a)(3) of this title, and as a condition of payment under section 1728(a)(2) of this title, that payment by the Secretary for treatment under such contract, or under such section, of a veteran enrolled under such contract, or under such section, of this title be made only after any payment that may be made with respect to such treatment under part A or part B of the Medicare program and after any payment that may be made with respect to such treatment by a third-party insurance provider.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care or services provided on or after the date of the enactment of this Act.

By Mr. ROBB:

S. 2620. A bill to amend the Federal Water Pollution Control Act to establish a National Clean Water Trust Fund to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States.
from damage resulting from violations of that act, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL CLEAN WATER TRUST FUND ACT OF 1998

Mr. ROBB. Mr. President, today I introduce a bill that will help clean up and restore our nation's waters. This bill, the National Clean Water Trust Fund Act of 1998, creates a trust fund from fines, penalties and other monies collected through enforcement of the Clean Water Act. The money deposited into the National Clean Water Trust Fund would be used to address the pollution problems that initiated those enforcement actions.

Last year, a highly publicized case in Virginia illustrated the need for this legislation. On August 8, 1997, U.S. District Court Judge Rebecca Smith issued a $12.6 million judgement, the largest fine ever levied for violations of the Clean Water Act. Mr. Smith fined Smithfield Foods, Isle of Wright County, Virginia, for polluting the James River. The Judge wrote in her opinion that the civil penalty imposed on Smithfield should be directed toward the restoration of the Pagan and James Rivers of the Chesapeake Bay. Unfortunately, due to current federal budget laws, the court had no discretion over the damages, and the fine was deposited into the Treasury's general fund, defeating the very spirit of the Clean Water Act.

Today, there is no guarantee that fines or other money levied against parties who violate provisions in the Clean Water Act will be used to correct water problems. Instead, some, if not all, of the money is directed into the general fund of the U.S. Treasury with no provision that it be used to improve the quality of our water. While the Environmental Protection Agency's enforcement activities are extracting large sums of money from industry and others through enforcement of the Clean Water Act, we ignore the fundamental issue of how to pay for clean up and restoration of pollution problems for which the penalties were levied. To ensure the successful implementation of the Clean Water Act, we should put these enforcement funds to work and actually clean up our nation's waters.

This legislation will establish a National Clean Water Trust Fund within the Treasury to earmark fines, penalties, and other funds, including consent decrees, obtained through enforcement of the Clean Water Act that would otherwise be placed into the Treasury's general fund. Within the provisions of the bill, the EPA Administrator would be authorized, with direct consultation from the states, to prioritize and carry out projects to restore and recover waters of the United States using the funds collected from violations of the Clean Water Act. This legislation would not preempt citizen suits or in any way preclude EPA's authority to undertake and complete supplemental environmental projects as part of settlements related to violations of the Clean Water Act and/or other legislation. The bill also provides court discretion over civil penalties from Clean Water Act violations to be used to carry out mitigation and restoration projects. With this legislation in place, the predicament like the one faced in Virginia.

Mr. President, it only makes sense that fines occurring from violations of the Clean Water Act be used to clean up and restore the damaged. This bill provides a real opportunity to improve the quality of our nation's waters.

I recognize that no action can be taken on this legislation this session. I introduce it today in order to give my colleagues, the Administration and others an opportunity to examine the ideas contained in the legislation. I will introduce this legislation early in the next Congress and hope we can include it in the reauthorization of the Clean Water Act when it is taken up next year.

Mr. President, I ask unanimous consent that the full 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. 2630

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 Clean Water Trust Fund Act of 1998".

SEC. 2. NATIONAL CLEAN WATER TRUST FUND. Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

"(b) NATIONAL CLEAN WATER TRUST FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (referred to in this subsection as the 'Fund') consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

"(2) TRANSFER OF AMOUNTS.—For fiscal year 1998, and each fiscal year thereafter, the Secretary of the Treasury shall transfer to the Fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other funds obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including any amounts obtained under consent decrees, and excluding funds ordered to be used to carry out mitigation projects under this section or section 505(a).

"(3) DUES FROM BACAS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall order that a civil penalty be used for carrying out mitigation, restoration, or other projects that are consistent with the purposes of this Act and that enhance public health or the environment.

"(B) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act and every 2 years thereafter, the Administrator shall submit to Congress a report on implementation of this section."

SEC. 3. USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.

(a) IN GENERAL.—Section 309(d) of the Federal Water Pollution Control Act (33 U.S.C. 1319(d) is amended by inserting after the second sentence the following: "The court may order that a civil penalty be used for carrying out mitigation, restoration, or other projects that are consistent with the purposes of this Act and that enhance public health or the environment."

(b) CONFORMING AMENDMENT.—Section 505(a) of the Federal Water Pollution Control Act (33 U.S.C. 1365(a) is amended in the last sentence by inserting before the period at the end the following: "including ordering the use of a civil penalty for carrying out mitigation, restoration, or other projects in accordance with section 309(d)").

By Mr. DOMENICI (for himself and Mr. BINGHAM): S. 2621. A bill to authorize the acquisition of the Valles Caldera National Preserve, as currently managed by the Baca Land and Cattle Company, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture through the private sector, and for purposes; to the Committee on Energy and Natural Resources.

THE VALLEYS CALDERA PRESERVATION ACT

Mr. DOMENICI. Mr. President, the Valles Caldera in Northern New Mexico
is a place you visit for a day, and long to return to for a life time. It is nature at its most extraordinary—an almost perfectly round bowl formed by a collapsed volcano. It is a place with rolling meadows, crystal-clear streams, roaming elk, Ponderosa pine and quaking aspens, and Golden eagles. This legislation guarantees that this very special place will be there for future generations to visit and remember.

I am very proud to be introducing legislation that will authorize the Secretary of the Interior to acquire a truly unique 95,000 acre “working ranch” in New Mexico, known alternatively as the Baca Ranch, the Valle Grande, and the Valles Caldera. Independently, but as importantly, this legislation also addresses longstanding problems encountered by Federal land managers in disposing of surplus federal property and the acquisition of private inholdings within federal management areas.

The former provides a unique solution to the management of a unique property, while the latter builds on existing laws and provides resources dedicated to the consolidation of federal agency holdings.

In north-central New Mexico there is a truly unique working ranch on an historic Mexican land grant known as Baca Location No. 1. The Ranch is currently owned and managed by the Baca Land and Cattle Company, and it contains innumerable signs of a collapsed, extinct volcano. It is a place with rolling meadows, crystal-clear streams, roaming elk, Ponderosa pines and quaking aspens, and Golden eagles. This legislation guarantees that this very special place will be there for future generations to visit and remember.

The legislation introduced today certainly cannot pass this year: unfortunately, time has run out for the 105th Congress, but many concerns and ideas will be heard and will continue to be discussed at hearings upon re-introduction in the 106th Congress. While there is consensus that this property should be acquired, we do not yet know the cost of the property. The Santa Clara purchase is estimated to be worth approximately $100 to $125 million, but the appraisal has not yet been given to the Forest Service or made public. Therefore, the exact cost of acquisition has yet to be determined.

This is the largest purchase of public land by the Forest Service in at least 25 years, therefore, it is imperative that careful consideration is given to not only the purchase, but to the management of the property as well.

In past years management agencies have been criticized for their stewardship of public lands. I find it ironic that many of the groups who wish to bring this ranch into government ownership are the same groups who, in recent years, have initiated reassertion of the initiative of the Forest Service and BLM alleging poor management of federal lands. However, diverse interests have come together to reach agreement on the trust management of the Ranch, and Congressman Domenici is to be commended for his diligent work in both Houses of Congress to obtain funding for purchase. Any funding at this point should be viewed as earnest money, and will be subject to this authorization and agreement on the fair market value for the property.

The parties have really worked hard in framing this legislation, and there are still a few issues we would like to work out. Not the least of which includes the interest expressed by the Santa Clara Pueblo in purchasing land north of the Caldera, but contains the headwaters of the Santa Clara Creek. Negotiations between the Pueblo, the Administration, the current owners of the property, and the congressional delegation on how to resolve this issue was not completed prior to today’s introduction. However, all parties are interested in continuing discussion regarding a potential Santa Clara purchase of property adjacent to their river. Under this scheme, the estate of Mr. Redmond has expressed specific interest in addressing other Native American issues regarding the Ranch acquisition.

I have visited the Baca Ranch, and I can tell you that it is one beautiful piece of property. The Valles Caldera is one of the world’s largest resurgent calderas, with potential geothermal resources, and its proximity to large municipal populations could provide numerous recreational opportunities for hiking, fishing, camping, cross-country skiing, and hunting.

The Baca Location is a unique working ranch. It is not a wilderness area, as in the words of the Wilderness Act, “untrammled by man, where man is a visitor who does not remain.” Man has been there for many years, and the Baca Ranch has remained virtually intact as a single, large, tract of land.

This legislation represents an opportunity to experiment with a different kind of public land management scheme. Burdensome regulations, and litigation resulting therein, have brought federal land management practices rapidly towards gridlock. The Valles Caldera National Preserve will
serve as a model to explore alternative means of federal management and will provide the American people with opportunities to enjoy the Valles Caldera and its many resources for generations to come.

The trust idea, based on similar legislation for federal management of the Presidio in San Francisco, sets in motion a truly unique management scheme befitting this truly unique place. I am willing to take a chance on an innovative approach because I believe that the current quagmire of federal land management simply does not do justice to this very special place. The unique nature of the Valles Caldera, and its resources, requires a unique management program, dedicated to appropriate development and preservation under the principle of the highest and best use of the ranch in the interest of the public.

Mr. President, title I of this legislation is concerned with the framework necessary to fulfill that objective. It authorizes the acquisition of the Baca ranch by the appropriate Federal agency. At the same time, it establishes a government-owned corporation, called the Valles Caldera Trust, whose sole responsibility is to ensure that the ranch is managed in a manner that will preserve its unique character, and provide enumerable opportunities for the American people to enjoy its splendor. Most importantly to me, however, the legislation will allow the ranch’s continued operation as a working asset for the people of north-central New Mexico, without further drawing on the thinly-stretched resources of the Federal land management agencies.

I am looking forward to hearings on this legislation next year, and know that the legislative process shall enlighten us further as to the complex nature of the Ranch. I, personally, am greatly forward to seeing an accurate value estimate of the land prior to authorization. While valued between $37 and $55 million in 1980, I have heard that the Baca ranch is currently estimated to be worth approximately $100 to $125 million. I do not know how such inflation will affect the likelihood of the location’s federal acquisition. I do know that we have waited patiently for many months for a promised appraisal from the current owners, but an appraisal has not been completed and we have any other offers to purchase the land been made. Therefore, the exact cost of acquisition has yet to be determined. Before we commit large sums of federal taxpayer dollars to purchase new property, it seems prudent to provide auction for the orderly disposal of surplus federal property and to meet our current obligations to those who hold lands within federal properties.

I would like to emphasize that while both portions of this bill are important to federal land management, both in New Mexico and nationwide, my intention is not to tie federal acquisition of the Baca upon disposition of surplus federal land. Instead, I feel this legislation independently addresses the acquisition of this unique property for public use and enjoyment, while solving current land management problems.

Currently, New Mexico has approximately 10 million acres in public ownership or management. I agree that these public lands are an important natural resource that require our most thoughtful management.

In order to conserve our existing National treasures for future use and enjoyment, we must devise, with the concurrence of other members of Congress and the President, a definite plan and timetable to dispose of surplus land through sale or exchange into private ownership.

Title II of this legislation addresses the orderly disposition of surplus federal property on a state by state basis. It also addresses the problem of what is known as “inholdings” within federally managed areas. There are currently over 15 million acres of privately owned lands trapped within the boundaries of Federal land management units, including national parks, national forests, national monuments, national wildlife refuges, and wilderness areas. These inholdings, referred to as inholdings, makes the exercise of private property rights difficult for the landowner. In addition, management of the public lands is made more cumbersome for the federal land managers.

In many cases, inholders have been waiting generations for the federal government to set aside funding and prioritize the acquisition of their property. With rapidly growing public demand for the use of public lands, it is increasingly difficult for federal managers to address problems created by the existence of inholdings in many areas.

This legislation directs the Department of the Interior and the Department of Agriculture to survey inholdings existing within Federal land management units, and to establish a priority for their acquisition, on a willing seller basis, in the order of those which have existed as inholdings for the longest time to those most recently being incorporated into the Federal unit.

Closely related to the problem created by inholdings within Federal land management units is the acquisition of public domain land which the Bureau of Land Management (BLM) has determined it no longer needs to fulfill its mission. Under the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM has identified and estimated four to six million acres of public domain lands for disposal, and the agency anticipates that additional public land will be similarly identified, with public input and consultation with State and local governments as required by law.

Mr. President, let me simply clarify that point—the BLM already has authority under an existing law, FLPMA, to exchange or sell lands out of Federal ownership. Through its public process for land use planning, when the agency has determined that certain lands would be more useful to the public under private or local governmental control, it is already authorized to dispose of these lands, either by sale or exchange.

The sale or exchange of this land which I have often referred to as “surplus,” would be beneficial to local communities, adjoining Federal and BLM land managers, alike. First, it would allow for the reconfiguration of land ownership patterns to better facilitate resource management. Second, it would contribute to administrative efficiency within federal land management units, by allowing for better allocation of fiscal and human resources within the agency. Finally, in certain locations, the sale of public land which has been identified for disposal is the best way for the public to realize a fair value for this land.

The problem, Mr. President, is that an orderly process for the efficient disposition of lands identified for disposal does not currently exist. This legislation addresses that problem by directing the BLM to fulfill all requirements for the transfer of these lands out of Federal ownership, and providing a dedicated source of funding generated from the sale of these lands to continue this process.

Additionally, this legislation authorizes the use of the proceeds generated from these lands to purchase inholdings from willing sellers. This will enhance the ability of the Federal land management agencies to work cooperatively with private land owners, and with State and local governments, to consolidate the ownership of public and private land in a manner that would allow for better overall resource management.

Mr. President, I want to make it clear that this program will in no way detract from other programs with similar purposes. The bill clearly states that proceeds generated from the disposal of public land, and dedicated to the acquisition of inholdings, will supplement, and not replace, funds appropriated for that purpose through the Land and Water Conservation Fund. In addition, the bill states that the Bureau of Land Management should rely on non-Federal entities to conduct appraisals and other research required for the sale or exchange of these lands, allowing for the least disruption of existing land and resource management programs.

Mr. President, this bill has been a long time in the making. For over a year, now, I have been working with and talking to knowledgeable people, both inside and outside of the current administration, to develop many of the ideas embodied in this bill. In recent weeks, my staff and I have worked closely with the administration on this legislation. I feel comfortable in stating that by working together, we have
reached agreement in principle on the best way to proceed with these very important issues involving the management of public land resources, namely; the acquisition and unique management plan for the Baca ranch in New Mexico, and just as importantly, the dispute that exists in the end, we in combination with a program to address problems associated with inholdings within our Federal land management units.

Mr. President, I have committed to the administration to continue to work with them on three or four areas of this bill, where concerns remain. I have full confidence, however, that we can address these issues through the legislative process in the next Congress. For example, the need for additional roads, parking, visitor facilities, and water and mineral rights are also important issues that must be resolved. However, we are very lucky to have the pleasure of a bipartisan, administration-approved, legislative concept from which to work.

The Senate Energy and Natural Resources Committee will schedule hearings to address the many issues regarding Federal purchase of the Baca Ranch early in the 106th Congress. Hopefully by that time, an appraisal will be available for review. Congress has tried to resolve the difficult challenges in acquiring this property before, and failed; cooperation among the parties may bring success this time around. I believe that the Baca Ranch will be able to stand together and tell the American people that we truly have accomplished two great and innovative things with this legislation.

Mr. President, I ask unanimous consent that the text of the bill and Statement of Principles be printed in the RECORD.

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

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) BACA RANCH.—The term ''Baca ranch'' means the lands and facilities described in section 101.

(2) MANAGEMENT.—Upon assumption of administrative jurisdiction pursuant to paragraph (1) shall be based on appraisal done in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions and

(b) A DDITION OF LAND TO BANDELIER NA-

TIVE AMERICANS—which can be preserved and protected through federal acquisition of the property;

(c) historical evidence in the form of old artifacts, and the lava dome with potential geothermal activity;

(d) the Baca ranch owned and managed by the Baca Land and Cattle Company, comprises most of the Valles Caldera in central New Mexico, and constitutes a unique land mass, with scientific, cultural, historic, recreational, ecological, wildlife, fisheries, and productive values;

(e) the Valles Caldera is a large resurgent lava dome with potential geothermal opportunities for hikers, fishers, campers, cross-country skiers, and hunting;

(f) the Forest Service documented the scenic and natural beauty of the Baca ranch in its 1993 study entitled ''Report on the Study of the Baca Location No. 1, Santa Fe National Forest, New Mexico,'' as directed by Public Law 102–237.

SEC. 103. DEFINITIONS.

(a) ACQUISITION OF BACA RANCH.—

(1) IN GENERAL.—In accordance with the Act of June 15, 1926 (16 U.S.C. 471a), the Secretary is authorized to acquire all or part of the Baca ranch and 416,400 acres of public lands adjacent to approximately 94,812 acres of the Baca ranch, comprising the lands, facilities, and structures referred to as the Baca Location No. 1, and generally depicted on a plat entitled "Independent Resurvey of the Baca Location No. 1," made by L.A. Osterhoudt, W.V. Hall and Associates W. Davis, Consulting Industrial Engineers, June 30, 1920—August 24, 1921, under special instructions for Group No. 107 dated February 12, 1920, in New Mexico.

(b) PURPOSES.—The purposes of this title are—

(1) to authorize Federal acquisition of the Baca ranch;

(2) to protect and preserve for future generations the scenic and natural values of the Baca ranch, associated rivers and ecosystems, and archaeological and cultural resources;

(3) to provide opportunities for public recreation;

(4) to establish a demonstration area for an experimental management regime adapted to this unique property which incorporates the National Monument with a sustainable future and in connection in order to promote long term financial sustainability consistent with the other purposes enumerated in this subsection; and

(c) Historical evidence in the form of old logging camps, and other artifacts, and the history of territorial New Mexico indicate the importance of this land over many generations for domesticated livestock production and timber supply;

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(4) to establish a demonstration area for an experimental management regime adapted to this unique property which incorporates the National Monument with a sustainable future and in connection in order to promote long term financial sustainability consistent with the other purposes enumerated in this subsection; and

(c) Historical evidence in the form of old logging camps, and other artifacts, and the history of territorial New Mexico indicate the importance of this land over many generations for domesticated livestock production and timber supply;
are hereby adjusted to encompass such addition. The Secretary of the Interior is authorized to utilize funds appropriated for the National Park Service to acquire on a willing seller basis any lands, including air space, through negotiations with the owner or lessee of such lands, through the submission of a map or other written materials to the Secretary, or by using any other means of land acquisition provided in the National Environmental Policy Act of 1969 (83 Stat. 387; 42 U.S.C. 4331 et seq.).

(c) PLAT AND MAPS.—

(1) PLAT AND MAP PREVAILS.—In case of any conflict between the plat referred to in subsection (a)(1) and the acreage provided in such subsection, the plat or map shall prevail.

(2) MINOR CORRECTIONS.—The Secretary and the Secretary of the Interior may make minor corrections in the boundaries of the Upper Alamo watershed as depicted on the map referred to in subsection (b)(1).

(3) BOUNDARY MODIFICATION.—Upon the conveyance of any lands to any entity other than the Secretary, the boundary of the Preserve shall be modified to exclude such lands.

(4) FINAL MAPS.—Within 180 days of the date of acquisition of the Baca ranch pursuant to subsection (a), the Secretary and the Secretary of the Interior shall submit to the Committees of Congress a final map of the Valles Caldera National Preserve and a final map of Bandelier National Monument, respectively.

(e) OUTSTANDING MINERAL INTERESTS.—The acquisition of the Baca ranch by the Secretary shall be subject to all outstanding valid existing mineral interests. The Secretary is authorized and directed to negotiate with the owners of any fractional interest in the subsurface estate for the acquisition of such fractional interest on a willing seller basis for their appraised fair market value. Any such interests acquired within the boundaries of the Upper Alamo watershed, as referred to in subsection (b)(1), shall be administered by the Secretary of the Interior as part of Bandelier National Monument.


SECTION 105. THE VALLES CALDERA NATIONAL PRESERVE.

(a) ESTABLISHMENT.—Upon the date of acquisition of the Baca ranch pursuant to section 104(a) there is hereby established the Valles Caldera National Preserve as a unit of the National Forest System which shall include all Federal lands and interest in land acquired pursuant to subsection 104(a), excluding those Federal lands and interest in land administered by the Secretary of the Interior pursuant to section 104(b)(1), and shall be managed in accordance with the purposes and requirements of this title.

(b) PURPOSES.—The purposes for which the Preserve is established are to protect and preserve the scenic, geologic, watershed, fish, wildlife, cultural and recreational values of the Preserve, and to provide for multiple use and sustained yield of renewable resources within the Preserve, consistent with the purposes of the Preserve.

(c) MANAGEMENT AUTHORITY.—Except for the purposes of the Secretary enumerated in this title, the Preserve shall be managed by the Valles Caldera Trust established by section 106.

(d) ELIGIBILITY FOR PAYMENT IN LIEU OF TAXES.—Lands acquired by the United States pursuant to section 104(a) shall constitute entitlement lands for purposes of the Payment in Lieu of Taxes Act (31 U.S.C. 6901–6904).

(e) WITHDRAWALS.—

(1) IN GENERAL.—Upon acquisition of all interests in minerals within the boundaries of section 104(e), subject to valid existing rights, the lands comprising the Preserve shall be withdrawn from disposition under all laws pertaining to mineral leasing, including geothermal leasing.

(2) MATERIALS FOR ROADS AND FACILITIES.—Nothing in this title shall preclude the Secretary, in the exercise of authority by the Trust, and the Trust thereafter, from allowing the utilization of common varieties of mineral materials such as sand, stone and gravel for construction and maintenance of roads and facilities within the Preserve.

(3) FISH AND GAME.—Nothing in this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing and trapping within the Preserve, except that the Trust may, in consultation with the Secretary and the State of New Mexico, designate zones where hunting and trapping shall be permitted, and such hunting and trapping shall be permitted for reasons of public safety, administration, the protection of nongame species and their habitats, or research purposes.

SEC. 106. THE VALLES CALDERA TRUST.

(a) ESTABLISHMENT.—There is hereby established a wholly owned government corporation known as the Valles Caldera Trust, which is empowered to conduct business in the State of New Mexico and elsewhere in the United States in furtherance of its corporate purposes.

(b) CORPORATE PURPOSES.—The purposes of the Trust are—

(1) to provide management and administrative services to the Trust;

(2) to establish and implement management policies which will achieve the purposes and requirements of this title;

(3) to receive and expend funds or to request funds from private and public sources and to make disposition in support of the management and administration of the Preserve and the Bandelier National Monument;

(4) to cooperate with Federal, State, and local governmental units, and with Indian tribes and Pueblos, to further the purposes for which the Preserve was established;

(c) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(d) STAFF.—

(1) IN GENERAL.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and to pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and general rates. No employee of the Trust shall be paid at a rate in excess of that paid the Supervisor of the Santa Fe National Forest or the Superintendent of the Bandelier National Monument, whichever is greater.

(2) FEDERAL SERVICE EMPLOYEES UPON ESTABLISHMENT OF THE TRUST.—For the two year period from the date of the establishment of the Trust, and upon the request of the Trust, the Secretary may provide, on a nonreimbursable basis, Forest Service personnel and technical expertise as necessary on a part-time or full-time basis to assist in the implementation of this title. Thereafter, Forest Service employees may be provided to the Trust as provided in paragraph (c).

(3) OTHER FEDERAL EMPLOYEES.—At the request of the Trust, the employees of any Federal agency may be provided for implementation of this title. Such employees may be provided to the Trust during the two year period from the date of the establishment of the Trust, and shall be paid at a rate not in excess of the prevailing rate in excess of that paid the Supervisor of the Bandelier National Monument at the time of establishment of the Trust.

(e) GOVERNMENT CORPORATION.—

(1) IN GENERAL.—The Trust shall be a Government Corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be included in the Financial Statement of the Corporation Fund established by section 9105 of title 31 of the United States Code.

(2) REPLENISHMENT.—The Trust shall submit, but not later than January 15 of each year, to the Secretary and the Committees of Congress a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year. The report shall also include a section that describes the Trust’s goals for the current year.

(f) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of New Mexico, and its political subdivisions, and the Counties of Sandoval and Rio Arriba.

(g) DONATIONS.—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations and other private or public entities for the purposes of carrying out its duties. The Secretary, prior to assumption of management authority by the Trust, and the Trust thereafter, may accept donations from such entities notwithstanding that such donors may conduct business with the Department of Agriculture or any other Department or agency of the United States.

(h) PROCEDURES.—

(1) IN GENERAL.—Notwithstanding section 1341 of title 31 of the United States Code, all monies received by the Trust shall be retained by the Trust, and such monies shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incident to the properties under its management jurisdiction.

(2) FUND.—There is hereby established in the Treasury of the United States a special fund bearing the name of the “Valles Caldera Fund” which shall be available, without further appropriation, to the Trust.
for any purpose consistent with the purposes of this title. At the option of the Trust, the Secretary of the Treasury shall invest excess monies of the Trust in such account, which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

(i) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. For purposes of such suits, the domicile of the Trust shall be the State of New Mexico. The Trust shall be represented by the Attorney General in any litigation arising out of the activities of the Trust.

(ii) LOCAL GOVERNMENT.—The Trust may retain attorneys to provide advice and counsel.

(iii) BYLAWS.—The Trust shall adopt necessary bylaws to govern its activities.

(k) INSURANCE AND BOND.—The Trust shall require that all holders of leases from, or parties in contract with, the Trust that are authorized to occupy, use, or develop properties under the management jurisdiction of the Trust procure professional insurance against any loss in connection with such properties, or activities authorized in such lease or contract, as the Trust may deem necessary.

SECTION 107. BOARD OF TRUSTEES.

(a) IN GENERAL.—The Trust shall be governed by a 7-member Board of trustees consisting of the following:

(1) VOTING TRUSTEES.—The voting Trustees shall be—

(A) the Supervisor of the Santa Fe National Forest, United States Forest Service;
(B) the Superintendent of the Bandelier National Monument, National Park Service; and
(C) 7 individuals, appointed by the President, in consultation with the Congressional delegation from the State of New Mexico.

The 7 individuals shall have specific expertise or represent an organization or government entity as follows—

(i) one trustee shall have expertise in all aspects of domesticated livestock management, production and marketing, including range management and livestock business management;
(ii) one trustee shall have expertise in the management of grasslands and non-game wildlife and fish populations, including hunting, fishing and other recreational activities;
(iii) one trustee shall have expertise in the sustainable use of timber, other forest products, or commodity and non-commodity purposes;
(iv) one trustee shall be active in a non-profit conservation organization concerned with the preservation of the Preserve; and
(v) one trustee shall have expertise in financial management, budgeting and programming;

(vi) one trustee shall have expertise in the cultural and natural history of the region; and
(vii) one trustee shall be active in State or local government in New Mexico, with expertise in the customs of the local area.

(2) QUALIFICATIONS.—Of the trustees appointed by the President—

(A) none shall be employees of the Federal Government; and
(B) at least five shall be residents of the State of New Mexico.

(b) INITIAL APPOINTMENTS.—The President shall make the initial appointments to the Board of Trustees within 90 days after acquisition of the Ranch pursuant to section 106(a).

(c) TERMS.—

(1) I N GENERAL.—Appointed trustees shall each serve a term of 4 years, except that of the two trustees first appointed, 4 shall serve for a term of 4 years, and 3 shall serve for a term of 2 years.

(2) VACANCIES.—Any vacancy among the appointed trustees shall be filled in the same manner in which the original appointment was made, and any trustee appointed to fill such vacancy shall serve for the remainder of the term for which his or her predecessor was appointed.

(3) LIMITATIONS.—No appointed trustee may serve more than 8 years in consecutive terms.

(d) QUORUM.—A majority of trustees shall constitute a quorum of the Board for the conduct of its business.

(e) ORGANIZATION AND COMPENSATION.—

(1) IN GENERAL.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the activities of the Trust.

(2) COMPENSATION OF TRUSTEES.—Trustees shall serve without pay, but may be reimbursed from the funds of the Trust for the actual and necessary travel and subsistence expenses incurred by them in the performance of their duties.

(3) CHAIR.—Trustees shall select a chair from the membership of the Board.

(f) LIABILITY OF TRUSTEES.—Appointed trustees shall not be considered Federal employees for the purpose of tort claims for any purpose consistent with the purposes of this title. Any such agreements out its authorized activities or fulfill the purposes of the Preserve.

(g) MEETINGS.—

(1) LOCATION AND TIMING OF MEETINGS.—The Board shall meet in sessions open to the public at least three times per year in New Mexico. Upon a majority vote made in open session, and a public statement of the reasons therefore, the Board may close any other meetings to the public. Provided, That any final decision of the Board to adopt or amend the comprehensive management program pursuant to section 106(d) or to approve any activity in the management program, or to make a determination of the land or resources of the Preserve shall be made in open public session.

(2) PUBLIC INFORMATION.—In addition to other requirements of applicable law, the Board shall establish procedures for providing appropriate public information and opportunities for public comment regarding the management of the Preserve.

SECTION 108. RESOURCE MANAGEMENT.

(a) ASSUMPTION OF MANAGEMENT.—The Trust shall assume all authority provided by law with respect to the Preserve under a determination by the Secretary, which to the maximum extent practicable shall be made within 60 days after the appointment of the Board, that—

(1) the Board is duly appointed, and able to conduct business; and
(2) provision has been made for essential management services.

(b) MANAGEMENT RESPONSIBILITIES.—Upon assumption of management of the Preserve pursuant to subsection (a), the Trust shall—

(1) administer the operations of the Preserve;
(2) manage and develop the land and resources of the Preserve;
(3) interpret the Preserve and its history for the public;
(4) manage of public use and occupancy of the Preserve; and
(5) maintain, rehabilitate, repair and improve the property within the Preserve.

(c) AUTHORIZED ACTIVITIES.—

(1) I N GENERAL.—The Trust shall develop a comprehensive management program for the Preserve, and shall have the authority to negotiate directly and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation on governmental entity, including without limitation, entities of Federal, State and local government, and consultation with Indian tribes and pueblos, as necessary and appropriate to carry out its authorized activities or fulfill the purposes of the Preserve. Any such agreements may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303).

(2) PROCEDURES.—The Trust shall establish procedures for entering into lease agreements and other agreements for the use and occupancy of facilities of the Preserve. The Trust may enter into lease agreements, and set guidelines for determining reasonable fees, terms, and conditions for such agreements.

(3) LIMITATIONS.—The Trust may not dispose of any real property in, or convey any water rights appurtenant to the Preserve.

(4) APPLICABILITY OF PROCUREMENT LAWS.—

(A) I N GENERAL.—Notwithstanding any other provision of law, Federal laws and regulations governing Federal government entities shall not apply to the Trust, with the exception of laws and regulations related to Federal government contracts governing health and safety requirements, wage rates, and civil rights.

(B) PROCEDURES.—The Trust, in consultation with the Administrator of Federal Procurement Policy, Office of Management and Budget, shall establish and adopt procedures applicable to the Trust’s procurement of goods and services, including the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(d) MANAGEMENT PROGRAM.—Within two years after assumption of management responsibilities for the Preserve, the Trust shall develop a comprehensive management program for the management of lands, resources, and facilities within the Preserve. Such program shall provide for—

(1) operation of the Preserve as a working ranch, consistent with paragraphs (2) through (4);
(2) the protection and preservation of the scenic, geologic, watershed, fish, wildlife, historic, cultural and recreational values of the Preserve;
(3) multiple use and sustained yield, as defined under the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 531), of renewable resources within the Preserve;
(4) public use of and access to the Preserve for recreation;
(5) preparation of an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the date of acquisition of the Ranch pursuant to section 106a; and
(6) optimizing the generation of income based on existing market conditions, but without unnecessarily diminishing the long-term scenic and natural values of the area, or diminishing the multiple use, sustained yield capability of the Ranch.

(e) PUBLIC USE AND RECREATION.—

(1) I N GENERAL.—The Trust shall give thorough consideration to the provision of opportunities for public use and recreation that are consistent with the other purposes under section 105(b), The
Trust is expressly authorized to construct and upgrade roads and bridges, and provide other facilities for activities including, but not limited to camping and picnicking, hiking, cross country skiing, and snowmobiling. Roads, trails, bridges, and recreational facilities constructed within the Preserve shall meet public safety standards applicable to units of the National Forest System and the State of New Mexico.

(2) FEES.—Notwithstanding any other provision of law, the Trust is authorized to assess reasonable fees for admission to, and use of, the Preserve, as provided in section 104(a)(1). The Trust is also authorized to permit, on a case-by-case basis, special events that may be identified under subsection (a) and to enter into agreements with organizations to manage and administer functions over the Preserve, and it shall thereafter be managed as a part of the Santa Fe National Forest, subject to all laws applicable to the National Forest System.

(3) CAMPING.—In the event of the termination of the Trust, the Secretary shall not apply to activities of the Trust and the Santa Fe National Forest, subject to all laws applicable to the National Forest System.

(4) REAL ESTATE.—In the event of the Trust, the Secretary shall sell, or transfer title to the State of New Mexico for public reservation, or lease land and facilities to the Trust, and the Trust shall either be dissolved or transferred to the Secretary.

(5) APPLICABLE LAWS.—The Trust shall be subject to all Federal laws applicable to the National Forest System. At the request of the Secretary, the Trust shall submit to the Secretary its records and facilities constructed within the Preserve, subject to the availability of appropriation funds.

(6) APPROPRIATIONS.—The Secretary shall not terminate. Any balances remaining in the fund shall be available to the Secretary, without further appropriation, for any purpose consistent with the purposes of this title.

SEC. 111. LIMITATIONS ON FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—The Secretary is hereby authorized to appropriate to the Secretary and the Trust such funds as are necessary for them to carry out the purposes of this title for each of the fiscal years after the date of acquisition of the Baca ranch pursuant to section 104(a).

(b) SCHEDULE OF APPROPRIATIONS.—Within two years after the first meeting of the Board of Directors, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funds that will achieve, at a minimum, the financially self-sustained operation of the Trust within 15 full fiscal years after the date of acquisition of the Baca ranch pursuant to section 104(a).

(c) ANNUAL BUDGET REQUEST.—The Secretary shall provide necessary assistance, including details necessary to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Preserve.

SEC. 112. GENERAL ACCOUNTING OFFICE STUDY.

(a) INITIAL STUDY.—Three years after the assumption of management by the Trust, the General Accounting Office shall conduct an initial study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The report shall include, but shall not be limited to, details of programs and activities operated by the Trust and whether it meets its obligations under this title.

(b) ANNUAL STUDY.—Seven years after the assumption of management by the Trust, the General Accounting Office shall conduct an annual study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The study shall provide an assessment of any failure to meet obligations that may be identified under subsection (a), and further evaluation on the ability of the Trust to meet its obligations under this title.

TITLE 10B—ACQUISITION OF INHOLDINGS AND DISPOSAL OF SURPLUS LAND

SEC. 201. SHORT TITLE.

This title may be cited as the “Acquisition of Inholdings and Disposal of Surplus Lands Act.”

SEC. 202. FINDINGS.

Congress finds that—

(1) many private individuals own land within the boundary of the Federal land management units and wish to sell this land to the Federal government;

(2) these lands lie within national parks, national forests, national monuments, and national wildlife refuges;
(3) In many cases, inholders on these lands and the Federal government would mutually benefit by acquiring on a priority basis these lands;

(4) Federal land management agencies are facing increased workloads from rapidly growing public demand for use of public lands, making it difficult for federal managers to focus efforts on programs that would allow for for the reconfiguration of land ownership patterns to better facilitate resource management;

(5) Through land use planning under the Federal Land Policy and Management Act of 1976, the Bureau of Land Management has identified certain public lands for disposal;

(6) The Bureau of Land Management has authority under the Federal Land Policy and Management Act of 1976 to exchange or sell lands identified for disposal under its land use planning;

(7) A more expeditious process for disposition of public lands identified for disposal would benefit the public interest;

(8) The sale or exchange of land identified for disposal would:

(A) allow for the reconfiguration of land ownership patterns to better facilitate resource management;

(B) contribute to administrative efficiency within the federal land management unit;

(C) allow for increased effectiveness of the allocation of fiscal and human resources within the agency;

(9) In certain locations, the sale of public land which has been identified for disposal is the best way for the public to receive a fair market value for the land;

(10) Using proceeds generated from the disposal of public land to purchase inholdings from willing sellers would enhance the ability of the Federal land management agencies to work cooperatively with private land owners, and State and local governments and promote consolidation of the ownership of public land held in a manner that would allow for better overall resource management;

(11) Proceeds generated from the disposal of public land may be properly dedicated to the acquisition of inholdings and

(12) To allow for the less disruption of existing land and resource management programs, land management agencies may use non-Federal entities to prepare appraisal documents for agency review and approval in accordance with the applicable appraisal standards.

SEC. 203. DEFINITIONS.

In this title:

(A) Federally designated areas.—The term "Federally designated areas" means land in Alaska and the eleven contiguous Western States as defined in section 103(o) of the Federal Land Policy and Management Act (43 U.S.C. 1702) that, on the date of enactment of this title, was within the boundary of—

(A) a unit of the National Park System;

(B) All lands or interests therein became public lands by state, inholdings within Federally designated areas by state, inholdings within Federally designated areas by state.

(C) National Recreation Areas, National Scenic Areas, National Monuments, National Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271 et seq.); and

(E) A wilderness area designated under the Wilderness Act of 1964, as amended (16 U.S.C. 121 et seq.), or an area designated under the National Trails System Act, as amended (16 U.S.C. 1241 et seq.).

(11) proceeds from the disposal of lands under this title shall be used to purchase inholdings contained within Federal designated areas;

(12) To allow for the less disruption of existing land and resource management programs, land management agencies may use non-Federal entities to prepare appraisal documents for agency review and approval in accordance with the applicable appraisal standards.

SEC. 206. DISTRIBUTION OF RECEIPTS.

Notwithstanding any other Act, except that specifically providing for a proportion of such proceeds to be used to acquire inholdings of any States, gross proceeds generated by the sale or exchange of public land under this title shall be deposited in a separate account in the Treasury of the United States to be known as the "Federal Land Disposal Account", for use as provided under section 207.

SEC. 207. FEDERAL LAND DISPOSAL ACCOUNT.

(a) In General.—Amounts in the Federal Land Disposal Account shall be available to the Secretary of the Interior and the Secretary of Agriculture, without further act of appropriation, to carry out this title.

(b) Use of the Federal Land Disposal Account.—Funds deposited in the Federal Land Disposal Account may be expended as follows under this section:

(1) Except as authorized under paragraph (7), proceeds from the disposal of lands under this title shall be used to purchase inholdings contained within Federal designated areas;

(2) To allow for the less disruption of existing land and resource management programs, land management agencies may use non-Federal entities to prepare appraisal documents for agency review and approval in accordance with the applicable appraisal standards.

(e) Report.—The Secretary shall submit a report to the Committee on Appropriations of the House of Representatives on the status of their evaluations with an appropriate priority to the American Indian Service;

(f) Termination of Program.—The program established by this section shall terminate ten years from the date of enactment of this title.
(6) the acquisition of inholdings under this section shall be at fair market value;

(7) an amount not to exceed 20 percent of the funds in the Federal Land Disposal Account shall be available for administrative and other expenses necessary to carry out the land disposal program under section 205;

(c) INVESTMENT OF PRINCIPAL.—Funds deposited in the Federal Land Disposal Account shall be available for appropriation under section 208.

(d) INVESTMENT OF PRINCIPAL.—Funds deposited in the Federal Land Disposal Account shall be available for appropriation under section 208.

(e) LAND AND WATER CONSERVATION FUND ACT.—Funds madeavailable under section 3(a) of the Land and Water Conservation Fund Act (16 U.S.C. 460a-1) shall be used for administrative and other expenses necessary to carry out land disposal program under section 205.

(f) TERMINATION.—On termination of the program under section 205—

(1) the Federal Land Disposal Account shall be terminated; and

(2) any remaining balance in such account shall become available for appropriation under section 3 of the Land and Water Conservation Fund Act (16 U.S.C. 460a–6).

SEC. 208. SPECIAL PROVISIONS.

(a) IN GENERAL.—Nothing in this title shall be construed as an exception from any existing limitation on the acquisition of lands of interests therein under any Federal law.

(b) SANTINI-BURTON ACT.—The provisions of this title shall not apply to lands eligible for sale pursuant to the Santini-Burton Act (94 Stat. 3381).

(c) EXCHANGES.—Nothing in this title shall be construed as precluding, pre-empting, or limiting the authority to exchange lands under section 81 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) or under the Federal Land Exchange Facilitation Act of 1988 (site).

(d) RIGHT OR BENEFIT.—This title is intended to provide a section regarding Federal land management. Nothing herein is intended to, or shall create a right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person.

STATEMENT OF PRINCIPLES

I. BACA RANCH

The Baca ranch in New Mexico is a unique land area, with significant scientific, cultural, historic, recreational, ecological, and productive values. Management of this working ranch by the current owners has included limited grazing, hunting, and timber harvesting, and it depicts a model for sustainable development and use. It is our intention to continue to follow this model.

The unique nature of the Baca ranch requires a unique program for appropriate preservation, protection, and management of the ranch.

Legislation to authorize the Federal acquisition and establish a unique management framework will:

(1) Provide for federal acquisition of the Baca Ranch property by the U.S. Forest Service with reimbursement of current owners on a fair price based on an objective appraisal;

(2) Provide for innovative management by a Trust, being a wholly owned government corporation comprised of individuals, (appointed by the President with New Mexican input), with appropriate expertise relevant to the unique management issues. These individuals will administer the operation, maintenance, management, and use of the ranch, based on public input and with governmental oversight;

(3) Provide management principles including protection of the unique values of the property as set forth in the above, demonstration of sustainable land use including recreational opportunities, selective timbering, limited grazing and hunting, and the use of appropriate range and silvicultural management with significant species diversity. Management shall be in furtherance of these goals and provide for the financial self-sufficiency of the operation without violating other management goals;

(4) Provide an opportunity for the Trust, should it not achieve financial self-sufficiency by its ninth year of operation, to continue operating upon agreement between Congress, after showing a rationale for not attaining a financially self-sufficient operation; and

(5) Provide for an initial appropriation in an amount necessary for management of the property.

The parties further agree to work together to make available the $20 million appropriated under the Federal Cash in Lieu of Taxation Act, the $20 million in FY’99 requested by the President for use to purchase the Baca ranch, and additional funds necessary to complete the purchase from an acceptable and reasonable appraisal and agreement on price between buyer and seller.

II. INHOLDER RELIEF AND SURPLUS LAND CONSERVATION

Millions of acres of private land lie within the boundaries of Federal land management units. BLM currently has authority to exchange or sell lands identified for disposal in its planning process. Proceeds generated from the disposal of these public lands to purchase inholdings in federal lands are generated until all available inholdings were generated until all available inholdings had been identified for exchange or sale. Proceeds from the sale of surplus lands must be spent within the state in which they were generated until all available inholdings are purchased.

The proceeds in the special account are to supplement, not supplant, appropriations to the Land and Water Conservation Fund and an adequate amount of the proceeds will be used to conduct appraisal and other administrative steps necessary to complete the sale of surplus lands.

(3) Terminates the land disposal program and account after ten years.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFFEE, Mr. RAGOUCUT, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. BREAUX, Mr. D’AMATO, Mr. CONRAD, Mr. MURKOWSKI, Mr. GRAHAM, Mr. JEFFORDS, Mr. MOSELEY-BRAUN, Mr. MACK, Mr. BRYAN, and Mr. KERREY):

S. 2622. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, with respect to the Corporation.

THE TAX RELIEF EXTENSION ACT OF 1998

Mr. ROTH. Mr. President, I rise to introduce the “Tax Relief Extension Act of 1998”, I am pleased to have as my principal cosponsor my distinguished friend and Ranking Member of the Finance Committee, DANIEL PATRICK MOYNIHAN. Fifteen Finance Committee Members have joined Senator MOYNIHAN and myself on this bill.

Before I discuss the Finance Committee bill, I’d like to comment on the House bill.

Chairman ARCHER and I attempted to negotiate a bill that would address expiring tax and trade provisions.

Chairman ARCHER and I had many discussions and meetings in trying to resolve differences on extenders, but we were unable to reach agreement. Let me say the House bill has many worthwhile proposals that will be in the Senate bill.

Mr. President, we find ourselves in a difficult situation. Although the House bill has many good proposals, it is unlikely the House bill will move by unanimous consent in the Senate in its present form. We will not be able to obtain unanimous consent because the House resisted negotiations on expiring provisions important to Members of the Senate.

I remain hopeful that the House and Senate can reach agreement on an extenders bill. I believe the Finance Committee is taking a step today that can lead us to that agreement.

Mr. President, this bill is the product of a Finance Committee meeting yesterday. At that meeting, a bi-partisan majority of the committee agreed on a package to address expiring tax and trade provisions—the so-called extenders. This bill is meant to be offered as a substitute to H.R. 4738, the House extenders bill.

We expect to consider the House bill together with the Finance Committee bill shortly.

This Finance Committee bill follows these principles:

All non-controversial expiring provisions are covered;

No policy changes are made to the extenders—only date changes; and

The package is fully offset.

The purpose of this bill is to leave tax policy on the expiring provisions settled until the next Congress. At that time, hopefully, we will be considering a major tax cut bill. When we are considering that tax cut bill next year, we will be able to address the policy and long-term period of the various provisions.

This bill is necessarily narrow. There are no Member provisions in this bill, including some I am interested in. In order to expedite this bill, the Finance Committee Members on this bill agreed to forego Member issues.
This bill extends several important provisions in the tax and trade areas, including:

- The research and development tax credit;
- The work opportunity tax credit;
- The welfare to work tax credit;
- The full deductibility of contributions of appreciated stock to private foundations;
- The active financing exception to Subpart F for financial services operations overseas;
- The tax information reporting access for the Department of Education for the Federal student aid programs;
- The Generalized System of Preferences (‘‘GSP’’); and
- The trade adjustment assistance (‘‘TAA’’) program.

In addition to extenders, the Finance Committee bill speeds up the full deductibility of health insurance deduction for self-employed persons. This bill also addresses time sensitive farm-related issues.

The final provision in this bill would correct an upcoming problem for millions of middle income taxpayers. The Taxpayer Relief Act of 1997 included tax relief for America’s working families in the form of the $500 per child tax credit and the Hope Scholarship tax credit, and other benefits. Taxpayers will expect to see these benefits when they file their returns on April 15th.

What some of these families will find is that the tax relief they expected will not materialize because of the alternative minimum tax (‘‘AMT’’). That is, these taxpayers will not count against the alternative minimum tax. The final provision in the Finance Committee bill will provide that benefits such as the $500 per child tax credit would count against the alternative minimum tax.

This point deserves emphasis. We can correct this problem for millions of taxpayers in this bill. As Chairman of the Finance Committee, I consider it my responsibility to simplify the tax code whenever possible. This last provision provides with that opportunity. I am pleased the Members of the Finance Committee back me in this effort.

Finally, I’d like return to the Senate’s procedures, schedule, and the prospects for extender legislation.

It is important to recognize that the House and Senate are very different bodies governed by starkly different rules and traditions. Unlike the House, the Senate Rules and schedule do not allow us to move this bill at this point in any other way than by unanimous consent. If we are to address these tax and trade provisions, we will need the cooperation of every Senator.

If we can get every Senator’s cooperation, and resolve our differences with the House, I believe we can deliver an extenders bill the President will sign.

I urge my colleagues to support this Finance Committee bill.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis, and revenue table of the legislation, be printed in the RECORD.

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

SEC. 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the—

(1) Tax Relief Extension Act of 1998; and

(2) Extension 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.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EXTENSION OF EXPIRING PROVISIONS


Sec. 101. Research credit.

Sec. 102. Work opportunity credit.

Sec. 103. Welfare-to-work credit.

Sec. 104. Contributions of stock to private foundations.

Sec. 105. Subpart F exemption for active financing income.

Sec. 106. Credit for producing fuel from a nonconventional source.

Sec. 107. Disclosure of return information on income contingent student loans.

Subtitle B—Trade Provisions

Sec. 111. Extension of duty-free treatment under General System of Preferences.

Sec. 112. Trade adjustment assistance.

TITLE II—OTHER TAX PROVISIONS

Sec. 201. 100-percent deduction for health insurance costs of self-employed individuals.

Sec. 202. Production flexibility contract payments.

Sec. 203. Income averaging for farmers made permanent.

Sec. 204. Nonrefundable personal credits for nondeductible regular tax liability during 1998.

TITLE III—REVENUE OFFSET

Sec. 301. Treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts.

TITLE IV—TECHNICAL CORRECTIONS

Sec. 401. Definitions; coordination with other titles.


Sec. 403. Amendments related to Taxpayer Relief Act of 1997.


Sec. 405. Other amendments.


TITLE I—EXTENSION OF EXPIRING PROVISIONS


SEC. 101. RESEARCH CREDIT.

(a) TEMPORARY EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(A) by striking ‘‘June 30, 1998’’ and inserting ‘‘June 30, 1999’’;

(B) by striking ‘‘24 months’’ and inserting ‘‘36-month’’; and

(C) by striking ‘‘24 months’’ and inserting ‘‘36 months’’.

(2) TECHNICAL AMENDMENT.—Subparagraph (D) of section 46B(b)(1) is amended by striking ‘‘June 30, 1998’’ and inserting ‘‘June 30, 1999’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after October 1, 1998.

SEC. 102. WORK OPPORTUNITY CREDIT.

(a) TEMPORARY EXTENSION.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking ‘‘June 30, 1998’’ and inserting ‘‘June 30, 1999’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1998.

SEC. 103. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Paragraph (9) of section 954(h) (relating to application) is amended to read as follows:

‘‘(9) APPLICATION.—This subsection shall apply to—

‘‘(A)(i) the first full taxable year of a foreign corporation beginning after December 31, 1997, and before January 1, 1999, and the taxable year of such corporation immediately following such taxable year, or

‘‘(ii) if a foreign corporation has no such first full taxable year, the first taxable year of such corporation beginning after December 31, 1997, and before January 1, 2000, and

‘‘(B) taxable years of United States shareholders of a foreign corporation with or within which the corporation’s taxable years described in subparagraph (A) end.’’

(b) CONFORMING AMENDMENT.—Section 1175(c) of the Taxpayer Relief Act of 1997 is repealed.

SEC. 106. CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 26(b)(3)(A) is amended by striking ‘‘July 1, 1998’’ and inserting ‘‘July 1, 1999’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after June 30, 1998.

SEC. 107. DISCLOSURE OF RETURN INFORMATION ON INCOME CONTINGENT STUDENT LOANS.

Subparagraph (D) of section 6103(l)(13) (relating to disclosure of return information to carry out income contingent repayment of student loans) is amended by striking ‘‘September 30, 1998’’ and inserting ‘‘September 30, 2004’’.

Subtitle B—Extension of Expired Trade Provisions

SEC. 111. EXTENSION OF DUTY-FREE TREATMENT UNDER GENERAL SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking ‘‘June 30, 1998’’ and inserting ‘‘June 30, 1999’’.

(b) EFFECTIVE DATE.—The amendments made by this section apply to articles entered on or before December 31, 1998.
provision of law and subject to paragraph (3), any article that was entered—
(i) after June 30, 1998, and
(ii) before October 1, 1998, and

to which duty-free treatment under title V of the Trade Act of 1994 would have applied if the entry had been made on June 30, 1998, shall be liquidated or reliquidated as free of duty. Section the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) LIMITATIONS ON REFUNDS.—No refund shall be made pursuant to this paragraph before October 1, 1998.

(C) ENTRY.—As used in this paragraph, the term "entry" includes a withdrawal from warehouse or consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of enactment of this Act, that contains sufficient information to enable the Customs Service—
(A) to locate the entry; or
(B) to reconstruct the entry if it cannot be located.

SEC. 112. TRADE ADJUSTMENT ASSISTANCE.

(a) INSIGNIFICANT ADMISSIONS.—

(1) IN GENERAL.—Section 245 of the Trade Act of 1974 (22 U.S.C. 2317) is amended—


(b) TERMINATION.—Section 285(c) of the Trade Act of 1974 (22 U.S.C. 2271 note preceding) is amended—

(1) in paragraph (1), by striking "September 30, 1998" and inserting "June 30, 1998"; and

(2) in paragraph (2)(A), by striking "the day that is" and all that follows through "effect" and inserting "June 30, 1998.";

TITLE III—REVENUE OFFSET

SEC. 201. INCOME AVERAGING FOR FARMERS MADE PERMANENT.

(a) IN GENERAL.—Subsection (c) of section 936 of the Taxpayer Relief Act of 1997 is amended by striking "of", and before January 1, 2001".

(b) AMENDMENT RELATED TO SECTION 3201 OF 1998 ACT.—Section 7421(a) of the 1986 Code is amended by striking "6015(d)" and inserting "6015(e)."

SEC. 202. REDUCTION AND RESTRUCTURING CONVENIENCE CONTRACT PAYMENTS.

(a) IN GENERAL.—The options under paragraphs (2) and (3) of section 112(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212(d) (2) and (3)), as in effect on the date of the enactment of this Act, shall in effect as if determined in determining the taxable year for which any amount paid under a production flexibility contract under subsection B of title I of such Act (as so in effect) is production income for purposes of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after December 31, 1995.
The preceding sentence shall apply only if the qualified partnership provides the company with written documentation of such distributive share as so determined.

(ii) the term ‘qualified partnership’ means, with respect to a regulated investment company, any partnership if—

(1) the partnership is an investment company registered under the Investment Company Act of 1940,

(2) the regulated investment company is permitted to invest in such partnership by reason of section 12(d)(1)(E) of such Act or an exemptive order of the Securities and Exchange Commission under such section, and

(III) the regulated investment company and the partnership have the same taxable year.

(iii) A regulated investment company meets the holding requirement of this clause with respect to a qualified partnership if (as of January 1, 1998)—

(i) the value of the interests of the regulated investment company in such partnership is 35 percent or more of the value of such company’s total assets, or

(ii) the value of the interests of the regulated investment company in partnership and all other qualified partnerships is 90 percent or more of the value of such company’s total assets.

(S) Paragraph (13) of section 1(h) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(D) CHARGEABLE REMAINDER TRUSTS.—Subparagraphs (A) and (B)(ii) shall not apply to any capital gain distribution made by a trust described in section 664.

(A) AMENDMENT RELATED TO SECTION 704 OF 1998 ACT.—Clause (i) of section 498A(c)(3)(C) of the 1986 Code, as amended by section 7004 of the 1998 Act, is amended by striking the period at the end of subclause (II) and inserting ‘‘,’’ and ‘‘.’’

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 1998 Act to which they relate.

SEC. 403. AMENDMENTS RELATED TO TAXPAYER INJURY COMPENSATION TRUST FUND.

(a) AMENDMENTS RELATED TO SECTION 202 OF 1997 ACT.—

(1) Paragraph (2) of section 163(h) of the 1998 Code is amended by striking ‘‘and’’ at the end of subparagraph (A), by striking the period at the end of subparagraph (E) and inserting ‘‘,’’ and ‘‘.’’

(b)(2) shall apply to taxable years beginning after December 31, 1990.

(2) Clause (ii) of section 368(a)(2)(H) of the 1986 Code is amended by striking ‘‘1997’’ and inserting ‘‘1998’’.

(f) AMENDMENTS RELATED TO SECTION 904 OF 1997 ACT.—Subparagraph (F) of section 661(b) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(i) AMENDMENT RELATED TO SECTION 1084 OF 1998 ACT.—Subparagraph (F) of section 72(b)(1) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(C) Section 201(c)(2) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(2) Paragraph (3) of section 68(c) of the 1986 Code is amended by striking ‘‘1997’’ and inserting ‘‘1998’’.

(5) Paragraph (3) of section 68(c) of the 1986 Code is amended by inserting ‘‘1998’’ before ‘‘1997’’.

(2) Paragraph (2) of section 6045(b) of the 1986 Code is amended by adding ‘‘Robert T. Stafford’’ before ‘‘Disaster’’.

(1) Paragraph (2) of section 351(c) of the 1998 Code is amended by striking ‘‘and’’ after ‘‘sections 86, 87, 89, 90, and 93’’.

(1) Paragraph (2) of section 351(c) of the 1986 Code is amended by striking ‘‘1997’’ and inserting ‘‘1998’’.

(a) EFFECTIVE DATES.—The amendments made by this section shall take effect as if included in the provisions of the 1997 Act to which they relate.

SEC. 404. AMENDMENTS RELATED TO TAX REFORM ACT OF 1984.

(a) AMENDMENTS RELATED TO SECTION 1012 OF 1984.—

(1) Paragraph (2) of section 1012(d) of the 1986 Code is amended by adding at the end the following new substantial part of the 1998 Code—

"(D) EFFECTIVE DATE.—This section shall apply to taxable years ending with or within the calendar year 1986.

(1) Section 915 of the 1997 Act is amended—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

(e) AMENDMENTS RELATED TO SECTION 915 OF 1997 ACT.—

(1) Section 915 of the 1997 Act is amended—

"(A) the payment of all expenses of administering the Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

(f) AMENDMENTS RELATED TO SECTION 904 OF 1997 ACT.—

(i) AMENDMENT RELATED TO SECTION 1084 OF 1998 ACT.—Subparagraph (F) of section 72(b)(1) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(C) any deduction for casualty or theft losses allowable under paragraph (2) of section 68, or subsection (a) of section 280B, shall be treated as attributable to the trade or business; and’’.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 351(c) of the 1986 Code is amended by striking ‘‘under such contracts for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A’’ and inserting ‘‘(a)’’. The amendment made by this section shall take effect as if included in the provisions of the 1997 Act to which it relates.
SEC. 405. OTHER AMENDMENTS.

(a) AMENDMENTS RELATED TO SECTION 6103 OF 1986 CODE.—

(1) Subsection (j) of section 6103 of the 1986 Code is amended by adding at the end the following new paragraph:

"(5) DEPARTMENT OF AGRICULTURE.—Upon request in writing by the Secretary of Agriculture, such fund after September 30, 1998, shall be treated as the Internal Revenue Code of 1986 as in effect on October 10, 1998.

(2) Paragraph (4) of section 6103(p) of the 1986 Code is amended by inserting "(1)(i) or (2)" in the material preceding subparagraph (A) and in subparagraph (F) and inserting "(1)(i), (2), or (5)"

(3) The amendments made by this subsection shall apply to requests made on or after the date of the enactment of this Act.

(b) Section 207 of the Social Security Act (42 U.S.C. 407) is amended by adding at the end the following new subsection:

"(5) DEPARTMENT OF AGRICULTURE.—Upon request in writing by the Secretary of Agriculture, such fund after September 30, 1998, shall be treated as the Internal Revenue Code of 1986 as in effect on October 10, 1998.

(c) Section 2057(e)(3) of the 1986 Code is amended by striking "section 2057(e)(3)".

(d) In paragraph (1)(A)(ii) of section 232, the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee"

SEC. 406. AMENDMENTS RELATED TO URUGUAY ROUND AGREEMENTS.

(a) INAPPLICABILITY OF ASSIGNMENT PROHIBITION.—Section 207 of the Social Security Act (42 U.S.C. 407) is amended by adding at the end the following new subsection:

"(ii) Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this title, if such withholding is done pursuant to a request made in accordance with section 3042(b)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person's representative payee, except for certain university basic research expenditures made by corporations, the research tax credit applies only to the extent that the taxpayer's qualified research expenditures for current taxable year exceed its base amount. The base amount for the current-year research expenditures multiplied by the taxpayer's "fixed-base percentage" is the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurs qualified research expenditures and has gross receipts during each of at least three years from 1984 through 1988, then the "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of 1.6). All other taxpayers (so-called "start-up firms") are assigned a fixed-base percentage of 3 percent.

(b) PROPER ALLOCATION OF COSTS OF WITHHOLDING BETWEEN THE TRUST FUNDS AND THE GENERAL FUND.—Section 201(g) of such Act (42 U.S.C. 601(g)) is amended—

"(1) by inserting before the period in paragraph (1)(A)(ii) the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee"

"(2) by inserting before the period in the end the following new paragraph:

"(5) DEPARTMENT OF AGRICULTURE.—Upon request in writing by the Secretary of Agriculture, such fund after September 30, 1998, shall be treated as the Internal Revenue Code of 1986 as in effect on October 10, 1998.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to requests by persons entitled to such benefits or such persons' representative payee, except for certain university basic research expenditures made by corporations, the research tax credit applies only to the extent that the taxpayer's qualified research expenditures for current taxable year exceed its base amount. The base amount for the current-year research expenditures multiplied by the taxpayer's "fixed-base percentage" is the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurs qualified research expenditures and has gross receipts during each of at least three years from 1984 through 1988, then the "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of 1.6). All other taxpayers (so-called "start-up firms") are assigned a fixed-base percentage of 3 percent.

(d) IN COMPUTING THE CREDIT, A TAXPAYER'S BASE AMOUNT MAY NOT BE LESS THAN 50 PERCENT OF ITS CURRENT-YEAR QUALIFIED RESEARCH EXPENDITURES.

SEC. 407. ALTERNATIVE INCREMENTAL RESEARCH CREDIT REGIME.

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate is likewise reduced. Under the alternative credit regime, a credit rate of 1.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount, using a fixed-base percentage of 1 percent (i.e., the base amount equals 1 percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 2.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2 percent. A credit rate of 2.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 3 percent. The election to be subject to this alternative incremental credit regime may be made for any taxable year beginning after June 30, 1998, and an election made for a taxable year and all subsequent years (in the event that the credit is subsequently extended by Congress) unless revoked with the consent of the Secretary of the Treasury.

Eligible expenditures

Qualified research expenditures eligible for the research tax credit consist of: (1) "in—

Footnotes at end of article.

Footnotes at end of article.
house” expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of the tax credit allowed by the taxpayer for qualified conducted on the taxpayer’s behalf (so-called “contract research expenses”). 3

To be eligible for the credit, the research must not only satisfy the requirements of present-law section 174 but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and must involve a process of experimentation related to functional aspects, performance, reliability, or quality of a business component.

Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

Relation to deduction

Despite the credit being allowed to a taxpayer under section 174 (or any other section) are reduced by an amount equal to 100 percent of the taxpayer’s research tax credit determined for the taxable year. The taxpayers may alternatively elect to claim a reduced research tax credit amount under section 41 in lieu of reducing deductions otherwise allowed (sec. 290C(c)(3)).

Description of Proposal

The bill extends the research tax credit for 12 months—i.e., generally, for the period July 1, 1998, through June 30, 1999. In effect, the credit, the scope of the term “qualified research” is reaffirmed. Section 41 targets the credit to research which is undertaken for the purpose of discovering information which is technological in nature and the application of which is intended to be useful in the development of a new or improved business component of the taxpayer. However, eligibility for the credit does not require that the research be successful—i.e., the research need not achieve its desired result. Moreover, evolutionary research activities introducing functional improvements, performance, reliability, or quality are eligible for the credit, as are research activities intended to achieve a result that has already been achieved (whether or not it is within the common knowledge (e.g., freely available to the general public) of the field (provided that the research otherwise meets the requirements of section 41, including not being excluded by subsection (d)(4)).

Activities constitute a process of experimentation for credit eligibility, if they involve evaluation of more than one alternative to achieve a result where the means of achieving the result are uncertain at the outset. If the taxpayer knows at the outset that it may be technically possible to achieve the result. Thus, even though a researcher may know of a particular method of achieving an outcome, the use of the process of experimentation to effect a new or better method of achieving that outcome may be eligible for the credit provided that the other employees meet the requirements of section 41, including not being excluded by subsection (d)(4).

Lastly, the lack of clarity in the interpretation of the process of experimentation between line-use software, the costs of which may be eligible for the credit if additional tests are met, and other software has been observed. The application of line-use in the interpretation of infinite software should fully reflect Congressional intent.

Effective Date

The extension of the research credit is effective for qualified research expenditures paid or incurred during the period July 1, 1998, through June 30, 1999.

b. Extension of the Work Opportunity Tax Credit

[Section 150 of the Bill and Sec. 51 of the Code]

Present Law

In general

The work opportunity tax credit ("WOTC"), which expired on June 30, 1999, was available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The credit equals 40 percent of the first $4,000 (or 20 percent of $4,000 for employers of 400 hours or less of qualified wages). Qualified wages are wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. For a vocational rehabilitation referral, however, the period begins on the day the individual began work for the employer on or after the beginning of the individual's vocational rehabilitation plan.

The maximum credit per employee if $2,400 (40% of the first $6,000 of first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40% of the first $3,000 of qualified first-year wages). The employer's deduction for wages is reduced by the amount of the credit.

Targeted groups eligible for the credit.

The eight targeted groups are: (1) families eligible to receive benefits under the Temporary Assistance for Needy Families (TANF) Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referred workers; (5) summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income (SSI) benefits.

Minimum employment period

No credit is allowed for wages paid to employees who work less than 120 hours in the first year of employment.

Expiration date

The credit is effective for wages paid or incurred to a qualified individual who began work for an employer before July 1, 1998.

Description of Proposal

The proposal extends the work opportunity tax credit, for 12 months, through June 30, 1999.

Effective Date

The proposal is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after May 1, 1999, and before July 1, 1999.

c. Extension of the Deduction Provided for Contributions of Appreciated Stock to Private Foundations (Sec. 104 of the Bill and Sec. 170(e) of the Code)

Present Law

In computing taxable income, a taxpayer who makes a charitable contribution of stock, other than publicly traded stock which is capital gain property, is allowed to deduct the fair market value of property contributed to a charitable organization. 4 However, in the case of a charitable contribution of short-term gain, inventory, or other ordinary income property, the amount of the deduction generally is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is related to the organization's tax-exempt purpose.

In cases involving contributions to a private operating foundation (not an operating foundation), the amount of the deduction is limited to the taxpayer's basis in the property. However, under a special rule contained in section 170(e)(5), taxpayers are allowed a deduction equal to the fair market value of "qualified appreciated stock" contributed to a private foundation prior to July 1, 1998. Qualified appreciated stock is defined as publicly traded stock which is capital gain property. The fair-market-value deduction for qualified appreciated stock contributions is extended to the extent that total donations made by the donor to private foundations of stock in a particular corporation did not exceed 10 percent of the outstanding stock of that corporation. For this purpose, an individual is treated as making all contributions that were made by any member of the individual's family.

Description of Proposal

The proposal extends the special rule contained in section 170(e)(5) for one year—for contributions of qualified appreciated stock made to private foundations during the period July 1, 1998, through June 30, 1999.

Effective Date

The proposal is effective for contributions of qualified appreciated stock to private foundations during the period July 1, 1998, through June 30, 1999.
In general

Under the subpart F rules, certain U.S. shareholders of a controlled foreign corporation ("CFC") are subject to U.S. tax currently on certain income earned by the CFC, whether or not it is distributed to the shareholders. The income subject to current inclusion under the subpart F rules includes, among other things, "foreign personal holding company income" and "foreign base company services income". The U.S. 10-percent shareholders of a CFC also are subject to current inclusion with respect to their shares of the CFC's foreign base company services income (i.e., income derived from services performed for a related person outside the country in which the CFC is organized).

Foreign personal holding company income generally consists of the following: (1) dividends, interest, royalties, rents and annuities; (2) net gains from commodities transactions; (3) net gains from foreign currency transactions; (5) income that is equivalent to interest; (6) income from notional principal contracts; and (7) payments in lieu of dividends.

Income subject to current inclusion under the subpart F rules includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country in which the CFC's ordinary business is conducted. Subpart F insurance income also includes income attributable to an insurance contract in connection with risks located within the CFC's country of organization, as the result of an arrangement under which another corporation receives a substantially equal amount of consideration for insurance of other-country risks. Investment income of a CFC that is allocable to any insurance or annuity contract related to risks located outside the CFC's country of organization under the subpart F insurance income (Prop. Treas. Reg. sec. 1.1953–1(a)).

Exceptions from foreign personal holding company income and foreign base company services income for certain income that is a property, casualty, health, life insurance or any other type of contract.

A temporary exception applies for income from foreign personal holding company income applies to income that is derived in the active conduct of a banking, financing, or similar business by a CFC. Under the regulations proposed under prior law section 1296(b) and 1.1296–4, the Secretary is directed to prescribe regulations applying look-through treatment in characterizing for this purpose dividends, interest, income equivalent to interest, rents and royalties from related persons.

For purposes of the temporary exception, a corporation is considered to be predominantly engaged in the active conduct of banking, financing, or similar business if it is engaged in the active conduct of a banking or securities business if or is a qualified bank affiliate or qualified securities affiliate. In this regard, a corporation is considered to be engaged in the active conduct of a banking or securities business if the corporation would be treated as so engaged under the regulations proposed under prior law section 1296(b) (as in effect prior to the enactment of the Taxpayer Relief Act of 1997), See Prop. Treas. Regs. secs. 1.1296–4 and 1.1296–6. Alternatively, a corporation is considered to be engaged in the active conduct of a banking or securities business if the corporation would be treated as so engaged under the regulations proposed under prior law section 1296(b) (as in effect prior to the enactment of the Taxpayer Relief Act of 1997), qualified bank affiliate or qualified securities affiliate are as determined under such proposed regulations. See Prop. Treas. Regs. secs. 1.1296–4 and 1.1296–6.

In no event can the reserve for any contract at any time exceed the foreign state or local reserve for the country in which the risk is located, as determined by any catastrophe or deficiency reserve. This rule applies whether the contract is regulated as a property, casualty, health, life insurance, annuity or any other type of contract.

A temporary exception from foreign personal holding company income applies for certain investment income of a qualifying insurance company with respect to risks located in a country in which the insurance company is engaged in the active conduct of an insurance business. For this purpose, the reserve for any contract at any time exceeds the foreign state or local reserve for the country in which the risk is located, as determined by any catastrophe or deficiency reserve. This rule applies whether the contract is regulated as a property, casualty, health, life insurance, annuity or any other type of contract.
In the case of contracts that are separate account-type contracts (including variable contracts not meeting the requirements of sec. 817), only the income specifically allocable to the contract is taken into account. In the case of other contracts, income specifically allocable is allocated ratably among such contracts.

A qualified insurance company is defined as any entity which: (1) is regulated as an insurance company under the laws of the country in which it is incorporated; (2) derives at least 50 percent of its net written premiums from the insurance or reinsurance of risks situated within its country of incorporation; and (3) is engaged in the active conduct of an insurance business and would be subject to tax under subchapter L if it were a domestic corporation.

The temporary exceptions do not apply to investment income (incurred in the income of a U.S. shareholder of a CFC pursuant to sec. 953) allocable to contracts that insure related party risks or risks located in a country other than the country in which the qualifying insurance company is created or organized.

Anti-abuse rule

An anti-abuse rule applies for purposes of these temporary exceptions. For purposes of applying these exceptions, items with respect to a transaction or series of transactions are disregarded if one of the principal purposes of the transaction or transactions is to qualify income or gain for these exceptions, including any change in the method of computing reserves or any other transaction or transactions one of the principal purposes of which is the acceleration or deferral of any item in order to claim the benefits of these exceptions.

Foreign base company services income

A temporary exception from foreign base company services income applies for income derived from services performed in connection with the active conduct of a banking, financing, insurance or similar business by a CFC that is predominantly engaged in the active conduct of such business or is a qualifying insurance company.

Description of Proposal

The proposal extends for one year the present-law temporary exceptions from foreign personal holding company income and foreign base company services income for income from the active conduct of a banking, financing, insurance or similar business.

Effective Date

The proposal applies only to the first full taxable year of a foreign corporation beginning in 1998 and to the taxable year of a foreign corporation immediately following such first taxable year.

In the case of contracts that are separate account-type contracts (including variable contracts not meeting the requirements of sec. 817), only the income specifically allocable to the contract is taken into account. In the case of other contracts, income specifically allocable is allocated ratably among such contracts.

A qualified insurance company is defined as any entity which: (1) is regulated as an insurance company under the laws of the country in which it is incorporated; (2) derives at least 50 percent of its net written premiums from the insurance or reinsurance of risks situated within its country of incorporation; and (3) is engaged in the active conduct of an insurance business and would be subject to tax under subchapter L if it were a domestic corporation.

The temporary exceptions do not apply to investment income (incurred in the income of a U.S. shareholder of a CFC pursuant to sec. 953) allocable to contracts that insure related party risks or risks located in a country other than the country in which the qualifying insurance company is created or organized.

Anti-abuse rule

An anti-abuse rule applies for purposes of these temporary exceptions. For purposes of applying these exceptions, items with respect to a transaction or series of transactions are disregarded if one of the principal purposes of the transaction or transactions is to qualify income or gain for these exceptions, including any change in the method of computing reserves or any other transaction or transactions one of the principal purposes of which is the acceleration or deferral of any item in order to claim the benefits of these exceptions.

Foreign base company services income

A temporary exception from foreign base company services income applies for income derived from services performed in connection with the active conduct of a banking, financing, insurance or similar business by a CFC that is predominantly engaged in the active conduct of such business or is a qualifying insurance company.

Description of Proposal

The proposal extends for one year the present-law temporary exceptions from foreign personal holding company income and foreign base company services income for income from the active conduct of a banking, financing, insurance or similar business.

Effective Date

The proposal applies only to the first full taxable year of a foreign corporation beginning in 1998 and to the taxable year of a foreign corporation immediately following such first taxable year.

The proposal extends the extended service period, but not the binding contract date, for facilities producing nonconventional fuels from coal and biomass through June 30, 1999.

This proposal is effective on the date of enactment (i.e., applies to facilities placed in service after June 30, 1998 and before July 1, 1999).

G. DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF EDUCATION IN CONNECTION WITH INCOME CONTINGENT LOANS (SEC. 107 OF THE BILL AND SEC. 6601(l)(2) OF THE CODE)

Under section 6103(l)(13) of the Code, the Secretary of the Treasury was authorized to disclose to the Department of Education certain return information with respect to any taxpayer who has received an "applicable student loan." An "applicable student loan" is any loan made under (1) part D of title IV of the Higher Education Act of 1965 or (2) parts B or E of title IV of the Higher Education Act of 1965 which is in default and has been determined by the Department of Education, if the loan repayment amounts are based in whole or in part on the taxpayer's income. The Secretary is permitted to disclose only data that reasonably could lead to the identification of the taxpayer and the adjusted gross income of the taxpayer. The Department of Education may use the information only to establish the appropriate income contingent repayment amount for an applicable student loan.

The disclosure authority under section 6103(l)(13) terminated with respect to requests made after the date of enactment and before October 1, 2004.

Effective Date

The disclosure authority under section 6103(l)(13) applies to requests made after the date of enactment and before October 1, 2004.

Subtitle B—Trade Provisions


Title V of the Trade Act of 1947, as amended, grants authority to the President to provide duty-free treatment on imports of certain articles from beneficiary developing countries subject to certain conditions and limitations. To qualify for GSP preferences, each beneficiary country is subject to various maintenance of law criteria. Import sensitive products are ineligible for GSP. The GSP program, which is designed to promote development through trade rather than traditional aid programs, expired after June 30, 1998.

Description of Proposal

The proposal reauthorizes the GSP program to terminate after December 31, 1999.

Effective Date

The proposal is effective for duties paid on or after July 1, 1998, and the date of enactment of the bill.

Title II of the Trade Act of 1947, as amended, authorizes three trade adjustment assistance (TAA) programs for the purpose of providing assistance to individual workers and firms that are adversely affected by the reduction of barriers to foreign trade. Those programs include—

1. The general TAA program for workers provides training and income support for workers adversely affected by import competition.

2. The TAA program for firms provides technical assistance by qualifying firms.

Title II of the Trade Act of 1974 (2) The program, The North American Free Trade Agreement ("NAFTA") program for workers (established by the North American Free Trade Agreement Implementation Act (1993) provides income support for workers adversely affected by trade with or production shifts to Canada and Mexico.

All three TAA programs expired on September 30, 1998. The TAA program for firms is also subject to annual appropriations.

Description of Proposal

The proposal reauthorizes each of the three TAA programs through June 30, 1999.

Effective Date

The proposal is effective on the date of enactment.

Title II. OTHER TAX PROVISIONS

A. INCREASE DEDUCTION FOR HEALTH INSURANCE EXPENSES OF SELF-EMPLOYED INDIVIDUALS (SEC. 201 OF THE BILL AND SEC. 162(L) OF THE CODE)

Present Law

Under present law, self-employed individuals are entitled to deduct a portion of the amount paid for health insurance for the self-employed individual and the individual’s spouse and dependents. The deduction for health insurance expenses of self-employed individuals is not available for any month in which the taxpayer is eligible to participate in a subsidized health plan maintained by the employer of the taxpayer or the taxpayer’s spouse. The deduction is available in the case of self insurance as well as commercial insurance. The self-insured plan must in fact be insurance (e.g., there must be appropriate risk shifting) and not merely a reimbursement arrangement.


Under present law, employees can exclude from income 100 percent of employer-provided health insurance.

Description of Proposal

The proposal increases the deduction for health insurance of self-employed individuals to 70 percent for taxable years beginning in 2001 and to 100 percent for taxable years beginning in 2002 and thereafter.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2000.

B. FARM PRODUCTION FLEXIBILITY CONTRACT PAYMENTS (SEC. 202 OF THE BILL)

Present Law

A taxpayer generally is required to include an item in income no later than the time of its actual or constructive receipt, unless such amount properly is accounted for in a different period under the taxpayer’s method of accounting. If a taxpayer has an unrestricted right to demand the payment of an amount, the taxpayer is in constructive receipt of that amount unless the taxpayer makes the demand and actually receives the payment.
The Federal Agriculture Improvement and Reform Act of 1996 (the “FAIR Act”) provides for production flexibility contracts between certain eligible owners and producers and the Federal government. These contracts generally cover crop years from 1996 through 2002. Annual payments are made under such contracts at specific times during the Federal government’s fiscal year. Section 112(d)(2) of the FAIR Act provides that one-half of each annual payment is to be made on either December 15 or January 15 of the fiscal year, at the option of the recipient. This option to receive the payment on December 15 potentially results in the constructive receipt (and thus potential inclusion in income) of such amounts in calendar year 1998, whether or not the amounts actually are received or the payment is made on either December 15 or January 15 of the fiscal year, at the option of the recipient.6 This allocation of elected farm income pursuant to the law is treated as a dividend. In the case of a capital gain dividend, and a RIC may designate a portion of the dividend paid to a corporate shareholder as eligible for the 70-percent dividends received deduction to the extent the RIC itself received dividends from other corporations. If certain conditions are satisfied, a RIC also is permitted to pass through to its shareholders the tax-exempt character of the RIC’s net income from tax-exempt obligations through the payment of “exempt interest dividends,” though no deduction is allowed for such dividends.

Description of Proposal

The proposal permanently extends the income averaging provision for farmers.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2000.

D. PERSONAL CREDITS FULLY ALLOWED AGAINST REGULAR TAX LIABILITY DURING 1998 (SEC. 24 OF THE BILL AND SEC. 26 OF THE CODE)

Present law provides for certain non-refundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and the disabled, the child and dependent care credit, the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, the adoption credit, and theAdditional Child Credit). However, these credits are allowed only to the extent that the individual’s regular income tax liability exceeds the individual’s tentative minimum tax (determined without regard to the AMT foreign tax credit).

The tentative minimum tax is an amount equal to (1) 26 percent of the first $157,000 ($175,500 in the case of a married individual filing a separate return) of alternative minimum taxable income (“AMTI”) in excess of a phased-out exemption amount and (2) the excess, if any, of 28 percent of the AMTI over the exemption amount. The AMTI rates on net capital gain used in computing the tentative minimum tax are the same as the regular tax rates. AMTI is the individual’s taxable income, reduced by the exemption amounts and adjusted to take account of specified preferences and adjustments. The exemption amounts are: (1) $45,000 in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 in the case of other unmarried individuals; and (3) $22,500 in the case of married individuals filing a separate return, estates, and trusts. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual’s AMTI exceeds $112,500 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

For families with three or more qualifying children, an additional credit is provided which may offset the liability for social security taxes to the extent that tax liability exceeds the amount of the earned income credit. Child credit is reduced by the amount of the individual’s minimum tax liability (i.e., the amount by which the tentative minimum tax exceeds the regular tax liability).

Description of Proposal

The proposal allows the nonrefundable personal credits to offset the individual’s regular tax in full for taxable years beginning in 1998 (as opposed to only the amount by which the regular tax exceeds the tentative minimum tax, as under present law).

The provision of present law that reduces the additional child credit by the amount of an individual’s AMT will not apply for taxable years beginning in 1998.

Effective Date

The proposal is effective for taxable years beginning in 1998.

Title IiI. Revenue Offset Provision

A. Treatment of Certain Deductible Liquidity Distributions of Regulated Investment Companies and Real Estate Investment Trusts (Sec. 303 of the Bill and Secs. 312 and 318 of the Code)

Regulated investment companies (“RICs”) and real estate investment trusts (“REITs”) are allowed a deduction for dividends paid to their shareholders. The deduction for dividends paid includes amounts distributed in liquidation which are properly chargeable to earnings and profits, as well as, in the case of dividends paid within 24 months after the adoption of a plan of complete liquidation, any distribution made pursuant to such plan to the extent of earnings and profits. Rules that treat the receipt of dividends from RICs and REITs generally provide for including the amount of the dividend in the income of the shareholder receiving the dividend that would be included in income by the RIC or REIT. Generally, any shareholder realizing gain from a liquidating distribution of a RIC or REIT includes the amount of the gain in his or her income in the year in which the distribution is made by the RIC or REIT. However, in the case of a liquidating distribution to a corporation owning 80-percent of the stock of the distributing corporation, a separate rule generally provides that the distribution is tax-free to the parent corporation. The parent corporation succeeds to the tax attributes, including the adjusted basis of assets, of the distributing corporation. Under these rules, a liquidating RIC or REIT might be allowed a deduction for amounts paid to its parent corporation, without a corresponding inclusion of the same amounts by the parent corporation, resulting in income being subject to no tax.

A RIC or REIT may designate a portion of a dividend as a capital gain dividend to the extent the RIC itself received dividends from other corporations. If certain conditions are satisfied, the RIC also is permitted to pass through to its shareholders the tax-exempt character of the RIC’s income from tax-exempt obligations through the payment of “exempt interest dividends,” though no deduction is allowed for such dividends.

Description of Proposal

Any amount which a liquidating RIC or REIT may take as a deduction for dividends paid with respect to an otherwise tax-free liquidating distribution to an 80-percent shareholder is includable in the income of the shareholder to the extent that of the distributing corporation. If the liquidating distribution is treated as a dividend received by the distributee, the distributing corporation may designate the amount distributed as capital gain. In that case of a RIC, a dividend eligible for the 70-percent dividends received deduction is treated as a capital gain, and an RIC may designate a portion of the dividend paid to a corporate shareholder as eligible for the 70-percent dividends received deduction to the extent the RIC itself received dividends from other corporations. If certain conditions are satisfied, a RIC also is permitted to pass through to its shareholders the tax-exempt character of the RIC’s net income from tax-exempt obligations through the payment of “exempt interest dividends,” though no deduction is allowed for such dividends.

Description of Proposal

The provision does not otherwise change the tax treatment of the distribution to the parent corporation or to the RIC or REIT. Thus, for example, the liquidating corporation will not recognize gain (if any) on the liquidating distribution and the recipient corporation will hold the assets at a carryover basis, with the amount received treated as a dividend.

Effective Date

The provision is effective for distributions on or after May 22, 1998, regardless of when the plan of liquidation was adopted.

No inference is intended regarding the treatment of such transactions under present law.

Title IV. Tax Technical Corrections

Except as otherwise provided, the technical corrections contained in this title generally are effective as if included in the originally enacted related legislation.
A. TECHNICAL CORRECTIONS TO THE 1998 ACT

1. Burden of proof (sec. 402(h) of the bill, sec. 3001 of the 1998 Act, and sec. 7491(a)(2)(C) of the Code)

Present Law
The Treasury Secretary has the burden of proof in any case involving a factual issue. If the taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the taxpayer's tax liability and it is specified in the Act, such evidence is satisfied (sec. 7491). One of these conditions is that corporations, trust, and partnerships must meet certain net worth limitations. Such limitations do not apply to individuals or to estates.

Description of Proposal
The proposal removes that net worth limitation from certain revocable trusts for the same period of time that the trust would have been treated as part of the estate had the trust made the election under section 645 to be treated as part of the estate.

2. Relief for innocent spouses (sec. 402(c) of the bill, sec. 3201 of the 1998 Act, and sec. 6015(e) and 7422(a) of the Code)

Present Law
A taxpayer who is no longer married to, is separated from, or has been living apart for at least 12 months from the person with whom she or he is legally joined with in a joint Federal income tax return may elect to limit his or her liability for a deficiency arising from such joint return to the amount of the deficiency that is attributable to items that are allocable to such electing spouse. The election is limited to deficiency situations and only affects the amount of the deficiency for which the electing spouse is liable. Thus, the election cannot be used to generate a refund, to direct a refund to one spouse or the other, or to allocate responsibility to a balance due reported on, but not paid with, a joint return.

In addition to the election to limit the liability for deficiencies, a taxpayer may be eligible for innocent spouse relief. Innocent spouse relief allows certain taxpayers who have been treated as part of the estate to be relieved of liability for an understatement of withholding or any unpaid tax or deficiency arising from a joint return. Under certain circumstances, it is inequitable to hold the underpayor liable. Thus, the election cannot be used to determine the tax of the RIC shareholdings to which the rule in the previous sentence applies.

Description of Proposal
The proposal removes the provisions that are attributable to items that are allocable to such electing spouse. The election is limited to deficiency situations and only affects the amount of the deficiency for which the electing spouse is liable. Thus, the election cannot be used to generate a refund, to direct a refund to one spouse or the other, or to allocate responsibility to a balance due reported on, but not paid with, a joint return.

Pro calendar quarters beginning after July 22, 1998, providing (1) the statute of limitations not having expired with regard to either a tax underpayment or overpayment, (2) the taxpayer identifies the periods of underpayment and overpayment where interest is payable and allowable for which the net interest rate of zero would apply, and (3) on or before December 31, 1999, the taxpayer asks the Secretary to apply the net zero rate.

Description of Proposal
The proposal restores language originally included in the Senate amendment that clarifies that the applicability of the zero net interest rate for periods on or before July 22, 1998, to any applicable statute of limitations not having expired with regard to either a tax underpayment or overpayment.

4. Effective date for elimination of 18-month holding period for capital gains (sec. 402(i) of the bill, sec. 5001 of the 1998 Act, and sec. 1(h) of the Code)

Present Law
The 1998 Act repealed the provision in the 1997 Act providing a maximum 28-percent rate for the long-term capital gain attributable to property held more than one year but not more than 18 months. Instead, the 1998 Act treated this gain in the same manner as gain from property held more than 18 months. The provision in the 1998 Act is effective for amounts properly taken into account after December 31, 1997. For gains taken into account by a pass-thru entity, such as a corporation, trust, estate, RIC or REIT, the date that the entity properly took the gain into account is the appropriate date in applying this provision. Thus, for example, properly taken into account by a pass-thru entity after July 28, 1997, and before January 1, 1998, with respect to property held more than one year but not more than 18 months which are included in income on an individual's 1998 return are taken into account in computing 28-percent rate gain.

Description of Proposal
Under the proposal, in the case of a capital gain dividend made by a RIC or REIT after 1997, no amount will be taken into account in computing the net gain or loss in the post-1997 capital gain category by reason of property being held more than one year but not more than 18 months, other than amounts taken into account by the RIC or REIT from other pass-thru entities (other than in structures, such as a “master-feeder structure”, in which the RIC invests a substantial portion of its partnership investments in holding portfolio securities and having the same taxable year as the RIC). A similar rule applies to amounts properly taken into account by REITs in computing the gain directly or indirectly, an interest in another RIC or REIT to which the rule in the preceding sentence applies.

For example, if a RIC sold stock held more than one year but not more than 18 months on November 15, 1997, for a gain, and makes a capital gain dividend in 1998, the gain is reported at 28 percent. The tax would not be charged on the 28-percent rate gain for purposes of determining the taxation of the 1988 dividend. (Thus, all the net gain as measured by the RIC need to be redone with respect to all post-1997 capital gain dividends, whether or not dividends of 28-percent rate gain.) If, however, the gain was taken into account by a RIC by reason of holding an interest in a calendar year 1997 partnership which itself sold the stock, the gain will not be recharged by the proposal, unless the RIC’s investment in the partnership satisfies the exception for master-feeder structures). If the gain was taken into account by the RIC, the gain was excluded from the 28-percent rate gain by reason of the application of this proposal to the REIT, the gain will be excluded from 28-percent rate gain in determining the tax of the RIC shareholders.

The proposal also corrects a cross reference.

B. TECHNICAL CORRECTIONS TO THE 1997 ACT

1. Treatment of interest on qualified education loans (sec. 403(a) of the bill, sec. 202 of the 1997 Act, and secs. 221 and 163(h) of the Code)

Present Law
Present law, as modified by the 1997 Act, provides that certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for the interest paid up to a maximum dollar amount per year ($1,000 for taxable years beginning in 1998), subject to certain requirements (sec. 221). The maximum deduction is phased out ratably for many individual taxpayers with modified AGI between $60,000 and $95,000 ($60,000 and $75,000 for joint returns). Present law also provides that in the case of a taxpayer other than a corporation, no deduction is allowed for personal interest (sec. 163(h)). For this purpose, personal interest means any interest allowable as a deduction, other than certain types of interest listed in the statute. This proposal does not specifically provide that otherwise deductible qualified education loan interest is not treated as personal interest.

Present law provides that a qualified education loan does not include any indebtedness owed to a person who is related to the borrower (within the meaning of section 267(b) or 707(b)) to the taxpayer (sec. 221(e)).

Description of Proposal
This proposal clarifies that otherwise deductible qualified education loan interest is not treated as non deductible personal interest.

The proposal also clarifies that, for purposes of section 221, modified AGI is determined after application of section 135 (relating to income from certain U.S. savings bonds) and section 137 (relating to adoption assistance programs).

The proposal also provides that a qualified education loan does not include any indebtedness owed to any person by reason of a loan under any qualified employer plan (as defined in section 72(p)(4)) or under any contract purchased under a qualified employer plan (as defined in section 403(a)).

2. Capital gain distributions of charitable remainder trusts (secs. 402(a)(3) and 403(b) of the bill, sec. 311 of the 1997 Act and sec. 5001 of the 1998 Act, and sec. 1(h) of the Code)

Present Law
Under present law, the income beneficiary of a charitable remainder trust ("CRT") includes the trust's capital gain in income when the gains are distributed to the beneficiary (sec. 664(b)(2)). Internal Revenue Service Notice 98–20 provides guidance with respect to the categorization of long-term gain distributions from a CRT under the capital gain rules enacted by the 1997 Act. Under the Notice, long-term capital gains properly taken into account by the trust before January 1, 1997, are treated as falling in the 20 percent group of gain (i.e., gain not in the 28 percent rate gain or unreaptured sec. 1250 gain). Long-term capital gains properly taken into account by the trust after December 31, 1996, and before May 7, 1997, are included in 28 percent rate gain. Long-term capital gains properly taken into account by the trust after May 6, 1997, are treated as falling into the category which would apply if the trust itself were a corporation.

Description of Proposal
The proposal provides that, in the case of a capital gain distribution by a CRT after December 31, 1997, with respect to amounts
properly taken into account by the trust during 1997, amounts will not be included in the 28-percent rate gain category solely by reason of being properly taken into account by the trust on the return filed by May 7, 1997, or by reason of the period of limitations on assessment of the 28-percent rate gain where the gain is distributed after 1997.

Effective Date

The proposal applies to tax years beginning after December 31, 1997.

3. Gift may not be revalued for estate tax purposes after expiration of statute of limitations (sec. 403(c) of the bill, sec. 504 of the 1997 Act, and sec. 2001(f)(2)(C) of the Code)

Present Law

Basic structure of Federal estate and gift taxes.—The Federal estate and gift taxes are unified so that a single progressive rate schedule is applied to an individual’s cumulative gifts and bequests. The tax on gifts made in a particular year is computed by determining the tax on the sum of the taxable gifts made in that year and in all prior years and then subtracting the tax on the prior years’ transfers at the unified estate tax rate. Similarly, the estate tax is computed by determining the tax on the sum of the taxable estate gifts and then subtracting the tax on taxable gifts, the unified credit, and certain other credits.

This structure raises two different, but related, issues: (1) what is the period beyond which additional gift taxes cannot be assessed or collected—generically referred to as the “period of limitations”—and (2) what is the period beyond which the amount of prior transfers cannot be revalued for the purpose of determining the amount of tax on subsequent transfers.

Gift tax period of limitations.—Section 6501(a) provides the general rule that any tax (including gift and estate tax) must be assessed, or a proceeding begun in a court for the collection of such tax without assessment, within three years after the return is filed by the taxpayer. Under section 6501(e)(2), the period for assessments of gift or estate tax is extended to six years where there is more than a 25 percent omission in the amount of the total gifts or gross estate disclosed on the gift or estate tax return. Section 6501(e)(3)(A) modifies these rules under which gift tax may be assessed, or a proceeding in a court for collection of gift tax may be begun, at any time unless the gift tax return is filed or a gift tax return or a statement attached to a gift tax return.

Revaluation of gifts for estate tax purposes.—The value of a gift is its value as finally determined after the expiration of the period of limitations on assessment of gift tax even where the value of the gift as shown on the return does not result in any gift tax being owed (e.g., through use of the unified credit), and (2) the value is specified by the Treasury Secretary pursuant to a final notice of revaluation of value (a “final notice”) within the period of limitations applicable to the gift tax (unless the gift tax purpose assessment of gift tax even where the value of the gift as shown on the return does not result in any gift tax being owed (e.g., through use of the unified credit), and (3) the value is determined by a court or pursuant to a settlement between the taxpayer and the Treasury Secretary under an administrative appeals process whereby a taxpayer can challenge a redetermination of value by the IRS prior to issuance of a final notice. In the event the taxpayer and the IRS cannot agree on the value of a gift, the taxpayer shall have the right to petition the court for a declaratory judgment on the value of the gift (section 7477). A taxpayer who mailed a final notice may challenge the final value of the gift (as contained in the final notice) by filing a motion for a declaratory judgment with the U.S. Tax Court. The motion must be filed on or before 90 days after the final notice was mailed. The statute of limitations is tolled during the pendency of the Tax Court proceeding.

4. Coordinate Vaccine Injury Compensation Trust Fund expenditure purposes with law of taxable vaccines (sec. 403(d) of the bill, sec. 904 of the 1997 Act, and sec. 9510(c) of the Code)

Present Law

A manufacturer’s excise tax is imposed on certain vaccines routinely recommended for administration to children (sec. 4331). The tax is imposed at a rate of $0.75 per dose on any listed vaccine component. Taxable vaccine components are vaccines against diphtheria, tetanus, pertussis, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, and varicella (chicken pox). Tax was imposed on vaccines against diphtheria, tetanus, pertussis, measles, mumps, rubella, and polio by the Omnibus Budget Reconciliation Act of 1987. Tax was imposed on vaccines against HIB, hepatitis B, and varicella by the 1997 Act.

Amounts equal to net revenues from this excise tax are available to the Vaccine Injury Compensation Trust Fund (“Vaccine Trust Fund”) to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines. Present law provides that payments from the Vaccine Trust Fund may be made to individuals eligible under the program as of December 22, 1997 (sec. 9510(c)(1)). Thus, payments may not be made for injuries related to the HIB, hepatitis B, or varicella vaccines.

Description of Proposal

The proposal provides that payments that are permitted from the Vaccine Trust Fund for injuries related to the administration of the HIB, hepatitis B, or varicella vaccines. The proposal also clarifies that expenditures from the Vaccine Trust Fund may occur only as provided in the Code and makes conforming amendments.

5. Abatement of interest by reason of Presidentialively declared disaster (sec. 603(e) of the bill, sec. 915 of the 1997 Act, and sec. 6840(h) of the Code)

Present Law

The Taxpayer Relief Act of 1997 (“1997 Act”) provided that, if the Secretary of the Treasury extends the filing date of an individual tax return for 1997 for individuals living in an area that has been declared a disaster area by the President during 1997, no additional interest shall be charged with respect to the failure of an individual taxpayer to file an individual tax return, or pay the taxes shown on such return, during the extension.

Description of Proposal

The proposal clarifies the “control immediately after” requirement of section 351(c) and section 368(a)(2)(H) in the case of certain
divisive transactions in which a corporation contributes assets to a controlled corporation and then distributes the stock of the controlled corporation in a transaction that meets the requirements of section 355 (or so much of section 355 as related to section 355). In such cases, not only the fact that the shareholders of the distributing corporation disposed of all of the distributed stock, but also the fact that the corporation whose stock was distributed issues additional stock, shall not be taken into account.

7. Treatment of affiliated group including formerly tax-exempt organization (see sec. 403(g) of the bill and sec. 1942 of the 1997 Act)

Present Law

Present law provides that an organization described in sections 501(c) (3) or (4) of the Code is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance. When this rule was enacted in 1986, certain treatment applied to Blue Cross and Blue Shield organizations providing health insurance that were submitted to this rule and that met certain requirements. Treasury regulations were promulgated providing rules for filing consolidated returns for affiliated groups consisting of organizations (Treas. Reg. sec. 1.1502–7(d)(5)).

The 1997 act repealed the grandfather rules provided in 1986 (permitting the retention of tax-exempt status for affiliated groups). It is attributable to Blue Cross and Blue Shield organizations providing health insurance that are attributable to the business of Mutual America which is attributable to pension business. The 1997 Act did not specifically provide rules for filing consolidated returns for affiliated groups including such organizations.

Present law with respect to consolidated returns provides for an election to treat a life insurance company as an includable corporation, and also provides that a life insurance company may not be treated as an includable corporation for the 5 taxable years immediately preceding the taxable year for which the consolidated return is filed (sec. 1504(c)(2)). Present law also provides that a corporation that is exempt from taxation under section 501(c)(3) is not an includable corporation (sec. 1504(b)(1)).

Description of Proposal

The proposal provides rules for filing consolidated returns for affiliated groups including an organization (see sec. 1504(c)(2)) (relating to a 5-year period) with the corporation whose stock was distributed issues additional stock, shall not be taken into account.

8. Treatment of net operating losses arising from certain eligible losses (sec. 403(h) of the bill, sec. 1662 of the 1997 Act, and sec. 170(h)(1)(F) of the Code) 

Present Law

The 1997 Act changed the general net operating loss ("NOL") carryback period of a taxpayer from three years to two years. The three-year carryback period was retained in the case of an NOL attributable to an eligible loss. An eligible loss is defined as (1) a casualty or theft loss of an individual taxpayer attributable to a portion of a substantial part of a residentially declared disaster area by a taxpayer engaged in a farming business or a small business. Other special rules apply to real estate investment trusts (REITs) (no carrybacks), specified liability losses (10-year carryback), and excess interest losses (no carryback).

Description of Proposal

The proposal coordinates the use of eligible losses with the general rule for NOLs in the same manner as a loss arising from a sale or exchange of a capital asset, and an eligible loss is treated for any year as a separate net operating loss and is taken into account after the remaining portion of the net operating loss for the tax year.

9. Determination of unburdened policy cash value under COLI pro rata interest disallowance rules (sec. 403(j) of the bill, sec. 1084 of the 1997 Act, and sec. 246(f) of the Code)

Present Law

In the case of a taxpayer other than a natural person, no deduction is allowed for the portion of the taxpayer's interest expense that is allocable to unburdened policy cash surrender values with respect to any life insurance policy or annuity or endowment contract issued after June 8, 1997. Interest expense is allocated to the policy cash surrender values on the basis of the ratio of (1) the taxpayer's average unburdened policy cash values of life insurance policies and annuity and endowment contracts, as determined after enactment of this rule, to (2) the sum of (a) in the case of assets that are life insurance policies or annuity or endowment contracts, the average unburdened policy cash values and (b) in the case of other assets the average adjusted bases for all such other assets of the taxpayer. The unburdened policy cash values are allocated in the same manner as the policy or contract determined without regard to any surrender charge, reduced by the amount of any loan with respect to the policy or contract. The surrender value is to be determined without regard to any other contractual or noncontractual arrangement that artificially depresses the unburdened policy cash value of a contract.

Description of Proposal

The proposal clarifies the meaning of "unburdened policy cash value" under section 264(f)(3), with respect to any life insurance policy, annuity or endowment contract. The technical correction clarifies that under section 264(f)(3), if the cash surrender value (determined without regard to any surrender charges with respect to the policy or contract) does not reasonably approximate its actual value, then the amount taken into account for this purpose is greater of (1) the amount of the insurance company's liability with respect to the policy or contract, as determined for purposes of annual statement prepared by the National Association of Insurance Commissioners, (2) the amount of the insurance company's reserve with respect to the policy or contract for purposes of such annual statement; or (3) such other amount determined by the Treasury Secretary. No inference is intended that such amounts may not be taken into account in determining the cash surrender value of a policy in certain circumstances for purposes of any other provision of the Code.

10. Payment of taxes by commercially acceptable means (sec. 403(k) of the bill, sec. 1505 of the 1997 Act, and sec. 6311(d)(2) of the Code)

Present Law

The Code generally permits the payment of taxes by commercially acceptable means (such as credit cards) (sec. 6311(d)). The Treasury Secretary has the discretion to prescribe any other methods of payment. The Code does not authorize any other consideration in connection with this provision. This fee prohibition may have an unintended impact on Treasury contracts for the provision of services unrelated to the payment of income taxes by commercially acceptable means.

Description of Proposal

The proposal clarifies that prohibition on paying any fees or providing any other consideration applies to the use of credit, debit, or charge cards for the payment of income taxes.
purposes of structuring, conducting, and preparing the census of agriculture by authorizing the Department of Agriculture to receive this information.

**Effective Date**

The proposal is effective on the date of enactment of this technical correction.

**E. TECHNICAL CORRECTIONS TO THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (SEC. 406(B) OF THE BILL, SEC. 9009 OF THE ACT, AND SEC. 908(F) OF THE CODE)**

**Present Law**

The Transportation Equity Act for the 21st Century ("Transportation Equity Act") (P.L. 105-175) extended the Highway Trust Fund and accompanying highway excise taxes. The Transportation Equity Act also changed the budgetary treatment of Highway Trust Fund expenditures, including repeal of a provision that balances maintained in the Highway Trust Fund pending expenditure earn interest from the General Fund of the Treasury.

**Description of Proposal**

The proposal clarifies that the Secretary of the Treasury is not required to invest High- way Trust Fund balances in interest-bearing obligations (because any interest paid to the Trust Fund by the General Fund would be immediately transferred to the General Fund).

**F. REPEAL OF PROVISIONS RELATING TO DISTRICT OF COLUMBIA JUDICIAL RETIREMENT PROGRAM (SEC. 805C OF THE BILL)**

**Present Law**

Section 804 of the Treasury and General Government Appropriations Act, 1999, makes certain technical and clarifying amendments to the Judicial Retirement Program of the District of Columbia. Included in these amendments were certain amendments that applied only for purposes of the Internal Revenue Code of 1986.

**Description of Proposal**

Section 804 of the Treasury and General Government Appropriations Act, 1999, is repealed.

**Effective Date**

The proposal is effective on the date of enactment.

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**PERFECTIONING AMENDMENTS RELATED TO WITHHOLDING FROM SOCIAL SECURITY BENEFITS AND OTHER FEDERAL PAYMENTS (SEC. 406 OF THE BILL AND Secs. 204 AND 206 OF THE SOCIAL SECURITY ACT)**

**Present Law**

The Uruguay Round Agreements Act (P.L. 103–465) contained a provision requiring that U.S. taxpayers who receive specified Federal payments (including Social Security benefits) be given the option of requesting that the Federal agency making the payments withhold Federal income taxes from the payments.

**Description of Proposal**

Due to a drafting oversight, the Uruguay Round Agreements Act included only the necessary changes to the Internal Revenue Code ("Code") and failed to make certain administrative changes to the Social Security Act (specifically a section that prohibits assignments of benefits). The proposal amends the Social Security Act anti-assignment section to allow the Code provisions to be implemented. The proposal also allocates funding for the Social Security Administration to administer the tax-withholding provisions.

**Effective Date**

The proposal applies to benefits paid on or after the first day of the second month beginning after the month of enactment.

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**FOOTNOTES**

1. This proposal is included.

2. The proposal contains a similar amendment to section 1(c)(23), as amended by section 5001 of the 1999 Act, to provide that, for purposes of taxing the recipient of a distribution made after 1998 by a CRT, amounts will not be taken into account in computing 28-per cent gain by reason of being properly taken into account before May 7, 1997, or by reason of the property being held for more than 18 months. Thus, no amount distributed by a CRT after 1997 will be treated as in the 28-percent category (other than by reason of the disposition of collectibles or small business stock).

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**ESTIMATED REVENUE EFFECTS OF S. 2626, THE ‘‘TAX RELIEF RELIEF ACT OF 1998’’**

**Taxes for years 1999–2007, in millions of dollars**

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<td><strong>I. EXTENSION OF EXPIRING PROVISIONS:</strong></td>
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<td>A. Extend the R&amp;E Credit (through 6/30/99)</td>
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<td>B. Extend the Work Opportunity Tax Credit (through 6/30/99)</td>
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<td>C. Extend the Welfare-to-Work Tax Credit (through 6/30/99)</td>
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<td>D. Extend Contributions of Appreciated Stock to Private Foundations (through 6/30/99)</td>
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<td>E. 1-Year Extension of Exemption from Subpart F for Active Financing Income.</td>
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<td>F. Extension of Placed-in-Service Date For Certain Nonconventional Fuels Facilities (through 6/30/99)</td>
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<td>G. Extension of Tax Information Reporting for Income Contingent Student Loan Program (through 9/30/04).</td>
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<td><strong>II. OTHER TAX PROVISIONS:</strong></td>
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<td>A. Increase Deduction For Health Insurance Expenses of Self-Employed Individuals—70% in 2001 and 100% in 2002 and thereafter.</td>
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<td>B. Protection Fee/Contract Payments to Farmers Not Included in Income Prior to Receipt.</td>
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<td>C. Permanent Extension of Income Averaging for Farmers.</td>
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<td>D. Treatment of Nonrefundable Personal Credits (child credit, adoption credit, Hope and Lifetime Learning credits, etc.) Under the Alternative Minimum Tax (1998 only).</td>
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<td>A. Change the Treatment of Certain Deductible Liquidating Distributions of RICs and REITs.</td>
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Mr. MOYNIHAN. Mr. President, I am pleased to cosponsor, along with our esteemed Chairman, Senator ROTH, a Senate Finance Committee bill to extend a package of expired tax provisions. Unfortunately, dealing with this group of expired tax items has become a routine annual event for the Committee and for the Congress. This bill extends universally popular items such as the credit for increasing research activities, the Work Opportunity Credit, and the deduction for gifts of appreciated stock to private foundations through June of next year. It is my hope the 1999 will be the year that the entire group of ‘‘extenders’’ are finally made permanent.

We thank Senator ROTH for ensuring that the Finance Committee is heard on this matter. Our action is a reminder that the United States Congress does not act, on tax bills or any other measures, as a unicameral legislature. Indeed, this Finance committee measure improves in several ways on the bill passed by the House Ways and Means Committee yesterday:

First, we extend the Trade Assistance Program from October 1, 1998 through June 30, 1999. This is an important program established in the Trade Expansion Act of 1992 that provides training and income support for workers adversely affected by import competition. It is a commitment we have made to workers, and it ought to be kept.

Second, the bill includes a provision that prevents the tax benefit of non-refundable personal credits such as the $500 per child credit and the adoption credit from being eroded by the Alternative Minimum Tax. This was to have been included as part of the Taxpayer Relief Act of 1997, but was dropped for some unknown reason as part of the final compromise. Without the ‘‘fix’’ included in this bill, we will trap unsuspecting taxpayers who sit down to prepare their 1998 Federal income tax returns next spring.

I applaud the work of the chairman and the committee in moving quickly to agree on this bill and, for the greater good, deferring action on a number of very important narrower items until next year.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. ROTH, and Mr. STEVENS)

S. 2623 would increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

Mr. THOMPSON. Mr. President, today I am pleased to introduce the Government for the 21st Century Act of 1998, a bill to establish a commission to bring the structure of the federal government in line with the needs of our Nation in the next century. This bipartisan legislation is the result of work over several months between myself and Senators GLENN, BROWNBACK, LIEBERMAN, ROTH, and STEVENS. It has been carefully crafted to address not just what our government should look like, but the more fundamental question of what it should do.

We all know the old adage, ‘‘form follows function’’—but in the case of our government, too often it is the other way around. The federal infrastructure should enable it to respond to national needs and the needs of individual citizens quickly, efficiently, and successfully—but years of outdated bureaucracies, procedures and red tape have impeded the kind of responsible service our citizens deserve and expect. The government we have today was designed for a world which has long since passed into history, a world in which personal computers did not exist, two-income families were the exception and no one had ever heard of a ‘‘sport utility vehicle’’. In short, it is time to modernize the federal government, and there is no more appropriate time to do it than on the eve of the next century. It seems to me that the federal government is doing too many things to do them all well. I believe we must reevaluate the functions of government to improve government service where it is needed, redirect resources where it is necessary, and get the federal government out of activities in which it does not belong. Our Founding Fathers envisioned a government of defined and limited powers. I can imagine their disapproval of the federal government today. We need to return to the limited government that the Founders intended, and the Commission established in the legislation we are introducing today is a major step in that direction.

The Government Restructuring and Reform Commission established by this legislation would take a hard look at federal departments, agencies and programs and ask—

How can we improve management to maximize productivity, effectiveness and accountability?

What criteria should we use in determining whether a federal activity should be privatized?

Which departments or agencies should be eliminated because their functions are obsolete, redundant, or better performed by state and local governments or the private sector?

We all want a federal government that is as innovative and responsive as the government we envision. Our challenge is to determine how to get there. We must start by asking ourselves what the essential functions of government will be in the next century, so we may tailor the scope and structure of the executive branch accordingly. Some activities now performed by the federal government may require more resources; others will surely require less. The Commission on Government Restructuring and Reform will give us a blueprint for designing a federal government to meet our Nation’s needs now and in the future.

I am pleased that Senators LIEBERMAN, BROWNBACK, ROTH, and STEVENS are joining me in introducing this bill today, and I thank them for the time and staff they have devoted to the effort. I look forward to working with them on this important legislation.

I ask unanimous consent that the Government for the 21st Century Act, along with the brief summary and section-by-section analysis, be printed in the RECORD.

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

S. 2623

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

SECTION 1. SHORT TITLE AND PURPOSE. (a) Short Title. — This Act may be cited as the ‘‘Government for the 21st Century Act of 1998’’.

(b) Purpose. —

(1) In General. — The purpose of this Act is to reduce the cost and increase the effectiveness of the Federal Government by reorganizing departments and agencies, consolidating redundant activities, streamlining operations, and decentralizing service delivery in a manner that promotes economy, efficiency, and accountability in Government programs. This Act is intended to result in a Federal Government that—

(A) utilizes a smaller and more effective workforce;

(B) motivates its workforce by providing a better organizational environment; and

(C) ensures greater access and accountability to the public in policy formulation and service delivery.
(2) SPECIFIC GOALS.—This Act is intended to achieve the following goals for improvements in the performance of the Federal Government by October 1, 2002:

(A) coordinated, or interdepartmental, or interagency activities that are necessary to achieve the following goals for improvements in the performance of the Federal Government by October 1, 2002:

(B) A substantial reduction in the costs of administering Government programs.

(C) A noticeable improvement in the timely and courteous delivery of services to the public.

(D) Responsiveness and customer-service levels comparable to those achieved in the private sector.

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) "agency" includes all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations;

(2) "private sector" means any business, partnership, association, corporation, educational institution, nonprofit organization, or individuals.

SEC. 3. THE COMMISSION.

(a) Establishment.—There is established an independent commission to be known as the Commission on Government Restructuring and Reform (hereafter in this Act referred to as the "Commission").

(b) Duties.—The Commission shall examine and make recommendations to reform and restructure the organization and operations of the executive branch of the Federal Government in order to—

(1) improve and strengthen management effectiveness, consistency, and accountability in Government programs and services, and shall include and be limited to proposals to—

(A) consolidate or reorganize programs, departments, and agencies in order to—

(i) improve the effective implementation of statutory missions;

(ii) eliminate activities not essential to the effective implementation of statutory missions;

(iii) reduce the duplication of activities among agencies; or

(iv) reduce layers of organizational hierarchy and personnel where appropriate to improve the effective implementation of statutory missions and increase accountability for performance;

(B) improve and strengthen management capacities across departments and agencies (including central management agencies) to maximize productivity, effectiveness, and accountability;

(C) develop criteria for use by the President and Congress in evaluating proposals to establish, or to assign a function to, an executive entity, including a Government corporation or Government-sponsored enterprise;

(D) define the missions, roles, and responsibilities of any new, reorganized, or consolidated department or agency proposed by the Commission in accordance with an agreement entered into with the Commission; and

(E) eliminate the departments or agencies whose missions and functions have been determined to be—

(i) obsolete, redundant, or complete; or

(ii) more effectively performed by other units of government (including other Federal departments and agencies and State and local governments) or the private sector; and

(2) continuing a function beyond the period authorized by law for its existence;

(3) authorizing an agency to exercise a function which is not already being performed by it;

(4) eliminating the enforcement functions of an agency, except such functions may be transferred to another executive department or independent agency; or

(5) adding, deleting, or changing any rule of either House of Congress.

(d) Appointment.—(1) MEMBERS.—The Commissioners shall be appointed for the life of the Commission and shall be comprised of nine members of whom—

(A) three shall be appointed by the President of the United States;

(B) two shall be appointed by the Speaker of the House of Representatives;

(C) one shall be appointed by the minority leader of the House of Representatives;

(D) two shall be appointed by the majority leader of the Senate; and

(E) one shall be appointed by the minority leader of the Senate.

(2) CONSULTATION REQUIRED.—The President may not provide for or have the effect of—

(A) defining the missions, roles, and responsibilities of any new, reorganized, or consolidated department or agency proposed by the Commission; or

(B) eliminating activities not essential to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission under subsection (b).

(3) CHAIRMAN.—At the time the President nominates an individual to serve to the Commission the President shall designate one such individual who shall serve as Chairman of the Commission.

(4) MEMBERS.—The Chairman of the Commission may be any citizen of the United States who is not an elected or appointed Federal public official, a Federal career civil servant, or a congressional employee.

(5) CONFLICT OF INTERESTS.—For purposes of the chapters of section 11, part F of title 18, United States Code, a member of the Commission (whom such provisions would not otherwise apply except for this paragraph) shall be a special Government employee.

(6) DATE OF APPOINTMENTS.—All members of the Commission shall be appointed within 90 days after the date of enactment of this Act.

(7) TERMS.—Each member shall serve until the termination of the Commission.

(i) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(g) MEETINGS.—The Commission shall meet as necessary to carry out its responsibilities. The Commission may conduct meetings outside the District of Columbia when necessary.

(h) PAY AND TRAVEL EXPENSES.—

(1) PAY.—

(A) CHAIRMAN.—Except for an individual who is chairman of the Commission and is otherwise a Federal employee, the chairman shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the chairman is engaged in the performance of duties vested in the Commission.

(B) MEMBERS.—Except for the chairman who shall be paid as provided under subparagraph (A), each member of the Commission who is not an elected or appointed Federal employee or officer shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the Commission.

(2) TRAVEL.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(i) STAFF.—

(1) APPOINTMENT.—The Director may, with the approval of the Commission, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission regulations implementing the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, and shall establish and operate a system of personnel services to the Commission.

(2) DETAIL.—

(A) DETAILS FROM AGENCIES.—Upon request of the Director, the head of any Federal department or agency, the head of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(B) DETAILS FROM CONGRESS.—Upon request of the Director, a Member of Congress or an official who is the head of an office of the Senate or House of Representatives may detail an employee of the office or committee of which such Member or officer is the head to the Commission to assist the Commission in carrying out its duties under this Act.

(2) ASSISTANCE.—The Comptroller General of the United States may provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(3) OTHER AUTHORITY.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code. The Commission shall give public notice of any such contract before entering into such contract.

(3) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(n) FUNDING.—There are authorized to be appropriated to the Commission $2,500,000 for fiscal year 1999, and $5,000,000 for each of fiscal years 2000 and 2001 to enable the Commission to carry out its duties under this Act.


SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS.—The Commission shall—

(a) PRESIDENTIAL RECOMMENDATIONS.—No later than July 1, 1999, the President may
submit to the Commission a report making recommendations consistent with the criteria under section 3 (b) and (c). Such a report shall contain a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

In General.—No later than December 1, 2000, the Commission shall prepare and submit a single preliminary report to the President and Congress, which shall include—

(1) a description of the Commission’s findings and recommendations, taking into account the recommendations submitted by the President to the Commission under subsection (a); and

(2) reasons for such recommendations.

(c) Commission Vote.—No legislative proposal or preliminary or final report (including a final report after disapproval) may be submitted by the Commission to the President and Congress without the affirmative vote of at least 6 members.

(d) Department and Agency Cooperation.—All Federal departments, agencies, and divisions and employees of all departments, agencies, and divisions shall cooperate fully with the Commission for the purpose of receiving comments on the reports.

(e) Final Report.—No later than 6 months after the conclusion of the period for public hearing under subsection (a), the Commission shall prepare and submit a final report to the President. Such report shall be made available to the public on the date of submission to the President. Such report shall include—

(1) a description of the Commission’s findings and recommendations, including a description of changes made to the report as a result of public comment on the preliminary reports;

(2) reasons for such recommendations; and

(3) a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(f) Extension of Final Report.—By affirmative vote of each House, the Commission may extend the deadline under subsection (b) by a period not to exceed 90 days.

(g) Review by the President.—

(1) In General.—

(A) Presidential Action.—No later than 30 calendar days after receipt of a final report under section (d), the President shall approve or disapprove the report.

(B) Presidential Inaction.—

(1) In General.—If the President does not approve the final report within 30 calendar days in accordance with subparagraph (A), Congress shall consider the report in accordance with clause (ii).

(ii) unless the President objects to clause (i), the Commission shall submit the final report, without further modification, to Congress on the date occurring 31 calendar days after the date of submission of the final report to the President under subsection (b).

(2) Approval.—If the report is approved, the President shall submit the report to Congress for legislative action under section 6.

(3) Disapproval.—If the President disapproves the report, the President shall submit the report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and Congress.

(4) Final Report After Disapproval.—The Commission shall consider any issues or objections raised by the President and may make such modifications to such issues and objections. No later than 30 calendar days after receipt of the President’s disapproval under paragraph (3), the Commission shall submit the final report (as modified if modified) to the President and to Congress.

SEC. 6. CONGRESSIONAL CONSIDERATION OF REPORT.

(a) Definitions.—For purposes of this section—

(1) the term “implementation bill” means only a bill which is introduced as provided under subsection (b), and contains the proposed legislation included in the final report submitted to the Congress under section 5(d) (1)(B), (2), or (4); and

(2) the term “calendar day” means a calendar day other than one on which either House is not in session because of an adjournment of more than three days to a date certain.

(b) Introduction, Referral, and Report on Discharge.—

(1) Introduction.—On the first calendar day on which both Houses are in session, on or immediately following the date on which a final report is submitted to the Congress under section 5(d) (1)(B), (2), or (4), a single implementation bill shall be introduced (by request)

(A) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate;

(B) in the House of Representatives by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) Referral.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee of jurisdiction in the House of Representatives.

(g) Conference.—A committee to which an implementation bill is referred under this paragraph may report such bill to the respective House with amendments proposed to be adopted. No such amendment may be proposed unless such proposed amendment is relevant to the bill.

(h) Report or Discharge.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 30th calendar day after the introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(i) Senate Consideration.—

(1) In General.—On or after the fifth calendar day after the date which an implementation bill is placed on the Senate calendar under subsection (b)(3), it is in order (even if a previous motion to the same effect has been made) for the Majority Leader to make a motion to proceed to the consideration of the implementation bill. The motion is not debatable. All points of order against the motion and provisions of the rules of the Senate and House of Representatives, which each committee of the House of Representatives, the Senate, and the House of Representatives, respectively, may adopt, shall apply to a motion to proceed to the consideration of the implementation bill other than points of order under Senate Rule 15, 16,
or for failure to comply with requirements of this section are waived. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the Senate shall immediately proceed to consideration of the implementation bill.

(2) Debate.—In the Senate, no amendment which is not relevant to the bill shall be made in order to the implementation bill. A motion to postpone is not in order.

(3) Appeals From Chair.—Appeals from the rulings of the Chair relating to the application of the rules of the Senate to the procedure relating to an implementation bill shall be decided without debate.

(j) Consideration in the House of Representatives.—

(1) In General.—At any time on or after the fifth calendar day after the date on which each committee of the House of Representatives to which an implementation bill has been referred reports such bill, or has been discharged under subsection (b)(3) from further consideration of that bill, the Speaker may, pursuant to clause (b)(1)(B) of rule XXIII, suspend the rules and pass the House resolved into the Committee of the Whole House on the State of the Union for the consideration of that bill.

All points of order against the bill, the consideration of the bill, and provisions of the bill shall be waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill, any amendments which shall not exceed 10 hours, to be equally divided and controlled by the Majority Leader and the Minority Leader, the bill shall be considered for amendment by the Speaker. After the five-minute rule and each title shall be considered as having been read.

(2) Amendments.—Each amendment shall be considered as having been read, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for not more than 30 minutes, equally divided and controlled by the proponent and the opposing party, except that the time for consideration, including debate and disposition, of all amendments to the bill shall not exceed 20 hours.

(3) Final Passage.—At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House without amendment. If such an amendment has been agreed to, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

(k) Conference.—

(1) Appointment of Conference.—In the event a motion to elect or to authorize the appointment of conferees from the presiding officer shall not be debatable.

(2) Conference Report.—No later than 20 calendar days after the appointment of conferees, the conferees shall report to their respective Houses.

(l) Rules of the Senate and House.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, but applicable only with respect to the procedure to be followed in that House in the case of an implementation bill described in subsection (k); and to the extent that it is inconsistent with such rules; and
with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent, as in the case of any other rule of that House.

SEC. 7. IMPLEMENTATION.

(a) Responsibility for Implementation.—The Director of the Office of Management and Budget shall have primary responsibility for implementation of the Commission’s report and shall act under section 5 (unless such Act provides otherwise). The Director of the Office of Management and Budget shall notify and provide direction to heads of affected departments, agencies, and programs. The head of an affected department, agency, or program shall be responsible for implementing and shall proceed with the recommendation contained in the report as provided under subsection (b).

(b) Departments and Agencies.—After the enactment of an Act under section 6, each affected Federal department and agency as a part of its annual budget request shall transmit to the appropriate committees of Congress its schedule for implementation of the provisions of the Act for each fiscal year. In addition, the report shall contain an estimate of the total expenditures required and the cost savings to be achieved by each action, along with the Secretary’s assessment of the effect of the action. The report shall also include a report of any activities that have been eliminated, consolidated, or transferred to other departments or agencies.

(c) GAO Oversight.—The Comptroller General shall periodically report to Congress and the President regarding the accomplishment, the costs, the timetable, and the effectiveness of the implementation of any Act enacted under section 6.

SEC. 8. DISTRIBUTION OF ASSETS.

Any proceeds from the sale of assets of any department, agency, or program resulting from the enactment of an Act under section 6 shall be—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.

GOVERNMENT FOR THE 21ST CENTURY ACT—BRIEF SUMMARY

This legislation will reduce the cost and increase the effectiveness of the Federal government by establishing a commission to propose to Congress and the President a plan to bring the structure and operations of the Federal government in line with the needs of Americans in the next century.

Duties of the Commission: The Commission is charged with the following duties:

1. To: Reorganize Federal departments and agencies, eliminate activities not essential to fulfilling agency missions, streamline government operations, and consolidate redundant activities.

The Commission would not be authorized to: Continue any agency or function beyond the date of enactment of an Act under section 6 but shall—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.

SEC. 1. SHORT TITLE AND PURPOSE

This section defines “agency” as all Federal departments, independent agencies, government-sponsored enterprises and government corporations and defines “private sector” as any business, partnership, association, corporation, educational institution, nonprofit or individual.

SECTION 2. DEFINITIONS

This section establishes a commission, known as the Commission on Government Restructuring and Reform, to make recommendations to Congress on the progress of implementation.

This section provides that the President shall report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and Congress. After 60 days, the President disapproves a report, the Commission may consider any issues and objections raised by the President and may modify the report on these issues and objections.

If the President disapproves the final report, the President shall submit a report to Congress on the progress of implementation. That report shall be introduced in both Houses by the Majority and Minority Leaders of the House and Senate by the Majority and Minority Leaders of the House and Senate, and the Speaker and Minority Leader of the House and Senate by the Majority and Minority Leaders of the House and Senate.

This section provides that any preliminary report submitted to the President and Congress under Section 4 be made available immediately to the public.

Three months after the conclusion of the period for public comments, the Commission shall submit a final report to the President and Congress. The final report shall be introduced in both Houses by the Majority and Minority Leaders of the House and Senate by the Majority and Minority Leaders of the House and Senate.

This section also provides that all Federal departments and agencies must cooperate fully with all requests for information from the Commission.

SECTION 5. PROCEDURES FOR IMPLEMENTATION OF REPORTS

This section provides that any preliminary report submitted to the President and Congress under Section 4 be made available immediately to the public. The final report, the Commission shall hold public hearings to receive comments on the report.

Six months after the conclusion of the period for public comments, the Commission shall submit a final report to Congress. This report shall be introduced in both Houses by the Majority and Minority Leaders of the House and Senate by the Majority and Minority Leaders of the House and Senate.

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By Mr. DOMENICI:

S. 2624. A bill to establish a program for training residents of low-income rural areas for, and employing the residents in, new telecommunications industry jobs located in the rural areas, and for other purposes; to the Committee on Labor and Human Resources.


Mr. DOMENICI. Mr. President, today, with great pleasure, I introduce "The Rural Employment in Telecommunications Industry Act of 1998."

The introduction of this Bill marks a historic opportunity for rural communities to create jobs within the telecommunications industry. The Bill establishes a program to train residents of low-income rural areas for employment in telecommunications industry jobs located in those same rural areas.

As many of my colleagues know, I have an initiative called "rural payday" and I believe this Bill is yet another step in creating jobs for our rural areas. All too often a rural area is characterized by a high number of low income residents and a high unemployment rate.

Moreover, our rural areas are often dependent upon a small number of employers or a single industry for employment opportunities. Consequently, when there is a plant closing or a downturn in the economy or a slowdown in the area's industry the already vulnerable rural residents are hit harder.

Mr. President, I would like to take a moment and talk about New Mexico.

While New Mexico may be the 5th largest state by size with its beautiful mountains, desert, and Great Plains and vibrant cities such as Albuquerque, Santa Fe, and Las Cruces it is also a very rural state. The Northwest and Southeast portions of the state are currently experiencing difficulties as a result of the downturn in the oil and gas industry. Additionally, the community of Roswell has been dealt a blow with the closing of the Levi Straus manufacturing plant.

As I stated before, rural areas that simply do not have the resources of more metropolitan areas can be simply devastated by a single event or downturn in the economy. And that Mr. President is why I am introducing "The Rural Employment in Telecommunications Industry Act of 1998."

The Bill will allow the Secretary of Labor to establish a program to promote rural employment in the telecommunications industry by providing grants to states with low income rural areas. The program will be a win win proposition for all involved because employers choosing to participate in the project by bringing jobs to the rural area will be assured of a highly skilled workforce.
(4) Secretary.—The term "Secretary" means the Secretary of Labor.

(5) State.—The term "State" means 1 of the several States.

SEC. 3. RURAL EMPLOYMENT IN THE TELECOMMUNICATIONS INDUSTRY PROGRAM.

(a) In General.—The Secretary shall establish a program to promote rural employment in the telecommunications industry. In carrying out the program, the Secretary shall specify, in up to 3 States for projects described in subsection (b).

(b) Use of Funds.—A State that receives a grant under subsection (a) shall use the funds made available through the grant to carry out a State telecommunications employment and training project. In carrying out the project, the State shall—

(1) train eligible individuals for new telecommunications industry jobs that will be located in low-income rural areas pursuant to arrangements with employers participating in the project, including ensuring that individuals receive—

(A) intensive services;

(B) customized training and appropriate remedial training described in paragraphs (2) and (3) of section 4; and

(C) appropriate supportive services; and

(2) the employment of the individuals in the telecommunications industry jobs.

(c) Eligible Participants.—To be eligible to participate in the project described in subsection (a), an individual shall be—

(1) a resident of a low-income rural area;

(2)(A) a low-income individual;

(3) a displaced worker from the oil and natural gas exploration and development industry;

(4) an out-of-school youth;

(5) an individual with a disability, as defined in section 101 of the Workforce Investment Act of 1998;

(6) an individual who is receiving, or who has received within the past year, assistance under the State temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or other public assistance;

(F) a veteran, as defined in section 101 of the Workforce Investment Act of 1998;

(G) an individual who is employed by others—cannot fully deduct from their taxable income. The entrepreneurs on Nebraska’s farms and ranches—afford the soaring cost of health care.

Today I am submitting legislation to accomplish that purpose.

The facts are simple. Prior to 1997, when we passed the 1997 Balanced Budget Agreement, the first $600,000 of an estate was excluded from taxes. The low old law gradually phased out this exclusion once an estate reached $17 million and used the savings to help self-employed Americans—like the thousands of entrepreneurs on Nebraska’s farms and ranches—afford the soaring cost of health care.

HEALTH CARE DEDUCTIBILITY LEGISLATION

Mr. KERREY. Mr. President, I have a very early this error纠正ed from the Senate. Let’s close an accidental tax loophole for the heirs of people who leave estates worth more than $17 million and use the savings to help self-employed Americans—like the thousands of entrepreneurs on Nebraska’s farms and ranches—afford the soaring cost of health care.

Today I am submitting legislation to accomplish that purpose.

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Today I am submitting legislation to accomplish that purpose.
health insurance. Today they can deduct 40 percent of the cost of their insurance. Under current law, they cannot fully deduct that cost until 2007.

So, my proposal is simple. Let’s close the loophole that everyone admits was an accident, and reduce that number to accelerate the full deductibility of health insurance for the self-employed. It’s a clear choice between a loophole that nobody wanted to exist and entrepreneurs who—especially those on our farms and ranches—may not exist much longer if we don’t get them some help.

While I recognize time is short for passing this bill this year, I urge my colleagues to join me in supporting this legislation and in pursuing this goal next year.

MEDICARE HOME HEALTH FAIR PAYMENT ACT OF 1998—S. 2616

Statements on the bill, S. 2616, introduced on October 9, 1998, did not appear in the RECORD. The material follows:

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BREAUX, Mr. JEFFFORDS, Mr. DONENZIC, Ms. MELANNES, Mr. BAYH, Mr. D’AMATO, Mr. BRYAN, Mr. HATCH, Mr. KERRY, Mr. ROCKEFELLER, Mr. NICKLES, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, and Mr. MURKOWSKI):

S. 2616. A bill to amend title XVIII of the Social Security Act to make revisions in the per beneficiary and per visit payment limits on payment for health services under the medicare program; to the Committee on Finance.

MEDICARE HOME HEALTH FAIR PAYMENT ACT OF 1998

Mr. ROTH. Mr. President, I rise to introduce the Medicare Home Health Fair Payment Act of 1998.

This legislation is the product of a great deal of hard work and analysis. It has bipartisan, bicameral support. Currently, the bill has 15 cosponsors, and similar legislation was introduced in the House of Representatives.

Staff worked to make sure that the technical aspects of this bill could be implemented. After technical review from the Health Care Financing Administration, it is our understanding that the changes in home health payments could be implemented as intended.

I would like to thank the many Senators who were very helpful and contributed to the debate of addressing the home health interim payment system. In particular, I commend Senator COLLINS, Senator GRASSLEY, Senator BREAUX, Senator COCHRAN, and Senator BOND. All put forward legislative proposals which we examined closely, and which helped us in our development of the legislation now before us.

With this budget neutral proposal, about 82% of all home health agencies in the benefit from improved Medicare payments. Although I have heard concerns that we do not go far enough to help some of the lowest cost agencies, it is an important step in the right direction. In fact, we have received letters of support from the Visiting Nurse Associations of America and the National Association for Homecare.

Let’s remember where we were before the Balanced Budget Act of 1997. Home health spending was growing by leaps and bounds, cases of fraud and abuse were common, and the Medicare program was headed towards bankruptcy in 2003.

Last year, Medicare spent $17 billion for 270 million home health care visits so that one out of every ten beneficiaries received care at home from a nurse, a physical or occupational therapist, and/or a nurse aide.

Unlike any other Medicare benefit, the home health benefit has no limits on the number of visits or days of care a beneficiary can receive, beneficiaries pay no deductible, nor do they pay any co-payments.

Prior to BBA, home health agencies were reimbursed on a cost basis for all their costs, as long as they maintained average costs below certain limits. This payment system gave immense incentives for home health agencies to increase the volume of services delivered to patients, and it attracted many new agencies to the program.

From 1989 to 1996, Medicare home health payments grew with an average annual increase of 33 percent, while the number of home health agencies swelled from about 5,700 in 1989 to more than 10,000 in 1997.

In response to this rapid cost growth and concerns about program abuses, the BBA included a number of changes to home health care. Congress and the Administration supported moving toward a Prospective Payment System (PPS). In order for HCFA to move to a PPS, however, a number of computer system changes were necessary with equivalent home health operations. The interim payment system (IPS) was developed to manage reimbursement until the PPS could be implemented.

Significant Medicare payment issues for home health care have emerged from our analysis from the impact of the IPS. There are severe equity issues in payment limit levels both across states and within states. These wide disparities are exacerbated by a major distinction between so-called “new” versus “old” agencies. “Old” agencies being those that were in existence prior to 1993, and “New” agencies those in existence since then.

The effects of the current home health payment methodology are that similar agencies providing similar services in the same community face very different reimbursement limits, leading to highly arbitrary payment differences.

The payment limit issues will deepen significantly more in 1999 due to a scheduled 15% cut in already tight and severely skewed payment limit levels.

Further, the prospective payment system scheduled to go on-line in October, 1999, will be delayed by several months to one year, because of year 2000 computer programming problems, according to the Health Care Financing Administration.

This legislation takes several steps to improve the Medicare home health care IPS and addresses the 15% cut.

First, it increases equity by reducing the extreme variations in payment limits applicable to old agencies within states and across states. This is achieved through a budget-neutral blend for “old” agencies.

Second, it increases fairness by reducing the artificial payment limit differences between “old” and “new” agencies. Such distinctions are contributing to the perception of arbitrariness in the home health care system.

And, our proposal does not create additional classes of home health agencies, such as “new—new” agencies subject to even deeper, arbitrary payment limits in the future. Restricting new entrants to home health care is an inappropriate barrier to entry in underserved areas—both in rural and inner city areas. In the legislation, greater fairness is achieved by eliminating the 2 percent discount applicable to new agencies, and raising the per visit limits for all agencies from 105 percent to 110 percent of the national median.

Third, the proposal lengthens the transition period for payment changes by providing all agencies a longer transition period in which to adjust to changed payment limits. It creates a sustainable fiscal base for the statutorily mandated prospective payment system (PPS) by delaying the scheduled 15 percent cut and the PPS for one year.

The following is a summary of the Medicare Home Health Fair Payment Act of 1998:

PER BENEFICIARY LIMITS
1. “Old” agency: payment is a blended formula equal to 50 percent BBA policy + 50 percent (50 percent national mean + 50 percent regional mean); and
2. “New” agency: payment is increased by 2 percent to equal 100 percent of the national median, (which continues to be regionally adjusted for wages).

PER VISIT LIMITS
3. Increase the per visit limits from 105 percent to 110 percent of the median.

DELAY BOTH THE 15 PERCENT ACROSS-THE-BOARD CUTS AND THE PPS
4. Delay of the 15 percent across-the-board cuts in payment limits and the implementation of the prospective payment systems now scheduled to take effect on October 1, 1999.

DESCRIPTION OF OFFSET POLICIES
1. Reduce the home health care annual market basket (MB) in the following manner:
   - for fiscal year 1999, plus 0.5 percentage point; for FY 2001 it is MB minus 0.5 percentage point; for FY 2002 and FY 2003 it is MB minus 0.5 percentage point; for FY 2004 it is MB plus 1.0 percentage point.
   - Savings of $300 million over 5 years.


Math Error Procedure—This provision would clarify the math error procedures that the IRS uses.
b. Rotavirus Vaccine—This provision will add an excise tax of 75 cents on a vaccine against rotavirus gastroenteritis, a highly contagious disease among young children.

c. Limiting Loss Contingent Rules—Certain liability losses can be carried back over ten years. This provision would clarify the scope of losses that qualify for the 10-year carryback.

d. Non-Accrual Based Method—This provision would limit the use of the non-accrual method of accounting to amounts received for the performance of certain professional services.

e. Information Reporting—This provision requires reporting on the cancellation of indebtedness by non-bank institutions.

3. Budget Pay-Go surplus for remaining offset.

At the beginning of my statement, I recognized my colleagues for their leadership on this issue. Now, I would like to especially thank the staff involved for their hard work and dedication to the completion of this bill. This represented a Herculean task on their behalf. In particular, I would like to recognize the principal staff involved who spent many long hours putting the details of this package together, they are Gioia Brophy and Kathy Means of my staff; and David Podoff from Finance Minority staff; Louisa Buatti and Scott Harrison of the Medicare Payment Advisory Commission; Tom Bradley and Cyndi Dudzinski of the Congressional Budget Office; Jennifer Boulinger and Ira Berne of the Health Care Financing Administration; John Goetchius of Senate Legislative Counsel; and Richard Price of the Congressional Research Service.

Mr. President, I ask unanimous consent that letters of support from the Visiting Nurse Association of America and the National Association of Homecare be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

VISITING NURSE ASSOCIATIONS OF AMERICA
Boston, MA, October 10, 1998.

Hon. William V. Roth, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

Dear Chairman Roth:
The Visiting Nurse Associations of America (VNAA) deeply appreciates your efforts to craft a solution to the problems caused by the Medicare home health interim payment system for our members and other cost effective home health agencies. Urgent action is needed before Congress adjourns to provide relief to these agencies to assure that they can continue to serve Medicare patients.

We understand that one barrier to action has been the difficulty in finding acceptable funding offsets to the modest Medicare spending required to achieve a workable package. We have been advised that the Finance Committee is currently considering an adjustment to future home health market baskets of $500 million, which would be used, and in 2004 the market basket would be increased by one percentage point.

VNAA strongly supports the delay in the 15% cut and supports the adjustment to future home health market baskets as a needed partial offset to the cost of that important action. VNAA hopes that its support for this offset will facilitate quick action by the Senate. If there are any questions about our position, please contact our Washington Representative, Randy Penninger, at 202-833-0007, Ext. 111.

Thank you for your continued efforts on behalf of cost effective home health agencies and their patients.

Sincerely,
Carolyn Markey
President and CEO.

NATIONAL ASSOCIATION OF HOME CARE

Hon. William V. Roth, Jr.,
Chair, Committee on Finance,
U.S. Senate, Washington, DC.

Dear Senator Roth:
The National Association for Home Care (NAHC) is the largest home care organization in the nation, representing all types of home health agencies and the patients they serve. We have had continuing concerns over the past year regarding the effects of the home health provisions of the Balanced Budget Act of 1997, particularly by the interim payment system (IPS).

We are pleased that you and other members of the Senate Finance Committee have shown the leadership to develop a package of IPS refinements that will help to ease some of the most pressing problems of the new payment system. We are particularly grateful for your inclusion of a one-year delay of the 15 percent reduction that is currently scheduled for October 1 of this year. We believe that there remain a number of important issues relating to the IPS that we believe must be addressed in the 106th Congress, your proposal will make a meaningful difference in helping agencies to remain open and to serve Medicare beneficiaries throughout the nation.

Many thanks for all of your efforts. We look forward to working with you, members of the House of Representatives, and others in developing additional relief legislation early next year.

Sincerely,
Val J. Halamandaris
President.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished Chairman, Senator Roth, and other colleagues in introducing a bill to improve the home health interim payment system.

Prior to the Balanced Budget Act of 1997 (BBA), home health agencies were reimbursed on a cost basis for all their services, as long as they maintained average cost rates within limits. That payment system provided incentives for home health agencies to increase the volume of services delivered to patients, and it attracted many new home health agencies. The bill would provide all agencies a longer transition period in which to adjust to changed payment limits.

Clearly, since the bill may not address all the concerns raised by Medicare beneficiaries and by home health agencies, we should revisit this issue next year. A thorough review is needed to determine whether the funding formula for home health care is sufficient, fair and appropriate, and whether the benefit is meeting the needs of Medicare beneficiaries.

America’s home health agencies provide invaluable services that have given many Medicare beneficiaries the ability to stay home while receiving medical care. An adjustment to the interim payment system and delay in further payment reductions will enable home health agencies to survive the transition into the "new" payment system while continuing to provide essential care for beneficiaries.

Mr. GRASSLEY. Mr. President, I am pleased to cosponsor the Medicare Home Health Fair Payment Act of 1998, which is a first step toward addressing the crisis in Medicare home health care. This is not a perfect bill, but it’s a good bill, and it is the best we can do at this moment in time. And it’s a good example of the Senate listening to the American people. Let’s pass it right now.

The Senate Special Committee on Aging, which I chair, highlighted the problems with the home health interim payment system dating back to March 31st of this year. For more than six months since that day, I have been working to find a solution to these problems, because I believe that it’s Congress’s responsibility. It’s true that the IPS legislation was primarily HCFA’s product. And HCFA’s implementation of the IPS has been questionable in many respects. But even if
HCFA proposed it, there’s no denying that Congress passed the IPS. So I have argued all year that it is incumbent on Congress to fix what’s wrong with it, this year.

What’s wrong with the IPS? In short, it hasn’t been fair to Medicare’s home health agencies, and their beneficiaries. The basic problem is the payment system. HCFA’s current prospective payment system for home health agencies provides less reimbursement to efficient low-cost providers than to inefficient high-cost providers. In other words, the system punishes those who strive to provide good care for patients and rewards those who refuse to do so.

In July we introduced the “Ipsum” bill. In the House, Congress has been working as hard as I know any legislature has been working over the past several months. In the Senate, the bill introduced by Senators Roth and Moynihan, the Grassley-Breaux bill, has been the most significant step towards fixing IPS. In the Senate, the bill introduced by Senators Roth and Moynihan, the Grassley-Breaux bill, has been the most significant step towards fixing IPS.

It is clear that the IPS has had serious unintended consequences. In Louisiana and other states, the interim payment system has for the most part rewarded inefficient providers and punished many low-cost, efficient agencies out of the program. For example, you could have one agency with a per beneficiary limit of $12,000 competing with another agency down the street with a per beneficiary limit of $4,000. This is not good, and it is not how we should be putting our money to work in the Medicare program.

The interim payment reform proposal put forward by Senators Roth and Moynihan is an important first step towards fixing IPS and I applaud the work of the Senate Finance Committee in arriving at this proposal. I think many members would argue that this must be done and I would agree. I am hearing from many home health agencies in Louisiana that this bill will only be of marginal help to the state but that it is important that something get done this year. As is the case with most things we do around here, particularly in the waning hours of this Congress, getting something done is better than getting nothing. I urge my colleagues and other Members of the Senate and I that Congress pass, with all due respect to my House colleagues, I urge them to recede from this bill.

The automatic 15% reduction that is currently scheduled for October 1, 1999. HCFA was originally required to institute a prospective payment system for home health agencies by October 1 of next year. Because of the Y2K problem, HCFA is now anticipating that it will not have PPS in place until April 1, 2000. Delaying the automatic 15% reduction in payments to home health agencies will ensure that the agencies aren’t punished for HCFA’s inability to implement PPS in a timely manner.

The goal of this bill is to fix some of the problems created in the BBA. Again, it is certainly only a first step—there is still much more that needs to be done and I am hopeful that the 106th Congress will revisit this issue to ensure that Medicare beneficiaries continue to have access to this very important benefit.

I urge my colleagues to support this bipartisan measure. It may not be everything everyone wants, but it certainly is better than doing nothing this year and it provides much-needed temporary relief to home health agencies across the country.

Mr. JEFFORD. Mr. President, today, I am very pleased to join in introducing the Medicare Home Health Fair Payment Act. Legislation that significantly improves the interim payment system to home health agencies established under the Balanced Budget Act of 1997. Over the past eight months, I have been working as hard as I know how to find a solution for the crisis faced by our home health care agencies in Vermont. Our 13 home health agencies are model agencies that provide high-quality, comprehensive home health care with a low price tag. However, under Medicare’s new interim payment system, payments to old and new agencies are so low that Vermont’s seniors may be denied access to needed home health services.
Under the legislation, the reimbursement from Medicare to home health agencies will be increased, and the 15% across-the-board cut scheduled for next year will be delayed by one year. Adoption of this bill will give the Vermont home health agencies needed financial relief. Under the new prospective payment system is in place.

For the past seven years, the average Medicare expenditure for home health care in Vermont has been the lowest in the nation. However, rather than being rewarded for this cost-effective program, Vermont has been penalized by the implementation of the current interim payment system. In June, 1998, Vermont's home health agencies projected that the statewide impact of the current interim payment system was a loss of over $1.5 million in Medicare revenues for the first year. This represents a loss of over 11% on an annual base of $40 million statewide.

Vermont is a good example of how the health care system can work to provide for high quality care for Medicare beneficiaries. Home health agencies are a critical link in the kind of health system that extends care over a continuum of options and settings. New England advances in medical practice hospitals to discharge patients earlier. They give persons suffering with acute or chronic illness the opportunity to receive care and live their lives in familiar surroundings. Timely, low-cost home health agencies have proven their value by providing quality, cost-effective services to these patients.

Yet time and again, federal policy seems to ensure that their good deeds should go unpunished. The Medicare Home Health Fair Payment Act is the product of a great deal of hard work by the Finance Committee and is carefully designed to ease the burden of home health care agencies. Vermont and other cost-effective agencies can look forward to being rewarded rather than penalized for their high-quality, low-cost comprehensive medical care to beneficiaries.

This bill was adapted by the Senate, supported by the House, and signed into law. I have worked closely with Vermont's 13 home health agencies, Senator LEAHY and the Governor's Office in developing a solution to the payment crisis. The signing of this bill will mark a victory for our State, and it will also reflect a strong worldwide commitment to high-quality, cost-effective home health agencies such as those in Vermont.

Ms. COLLINS, Mr. President, I rise in support of the legislation introduced by the distinguished chairman of the Finance Committee. I would have preferred the approach taken in my own home health bill, which I introduced last April and which has 29 Senate cosponsors, because it would have done more to level the playing field and provide more relief to historically cost-ineffective agencies. I understand that the chairman faced a difficult task of balancing a number of competing issues, and the bill we are considering today is an important first step that will move the process forward and help to turn around the problems with a system that effectively rewards the agencies that have most reduced Medicare's historic cost-based payment for home health care and has inherent incentives for home care agencies to provide more services, which has driven up costs.

Therefore, there was widespread support for the Balanced Budget Act provision calling for the implementation of a prospective payment system for home care. Until then, home health agencies are being paid according to a new "interim payment system," which unfortunately is critically flawed. As we are all aware, the Health Care Financing Administration has diverted considerable resources to solving its Y2K problem so that there will be no slowdown of Medicare payments in 2000. As a result, implementation of the prospective payment system for home health agencies will be delayed, and home health agencies will remain on IPS far longer than Congress envisioned. The Balanced Budget Act's historic cost-based payment system for home health care has inherent incentives for home care agencies to provide more relief to historically cost-ineffective providers. Home health agencies in the North-east are among those that have been particularly hard-hit by the formula change. As the Wall Street Journal recently observed, "If New England had been just a little greeder, its home health industry would be a lot better off now... Ironically, [the region] is getting clobbered by the system because of its tradition of nonprofit community service and efficiency.

Moreover, there are wide disparities in payments and no logic to the variance in payment levels. The average patient cap in the East South Central region is almost $2,500 higher than New England's without any evidence that patients in the southern States are sicker or that nurses and other home health personnel in this region cost more.

Moreover, the current per-beneficiary limits range from a low of $760 for one agency to a high of $53,000 at another. As such, the system gives a competitive advantage to high-cost agencies over their lower costs neighbors, since agencies in a particular region may have different reimbursement levels regardless of any differences among their patient populations. And finally, this system may force low-cost agencies to stop accepting patients with more serious health care needs.

Mr. President, I realize that we cannot address every home health issue that has been raised this year. Some matters will have to carry over to the next Congress, and I fully intend to work with my colleagues next year on these items. Nonetheless, there are things we can do this year, and I believe that it is imperative that Congress act now to begin to address these problems.

Mr. President, I realize that this bill will not address every home health issue that has been raised this year. Some matters will have to carry over to the next Congress, and I fully intend to work with my colleagues next year on these items.
of a temporary payment system that was recommended to us by the Health Care Financing Administration. The fact is that the so-called interim payment system (IPS) was untested, and, as we have found, made such swift and deep cuts in reimbursement that it hampered the ability of home care providers to serve needy patients and affecting access to care for some of the most frail, oldest, and poorest of our seniors and disabled.

The IPS is the worst case of false economy that I’ve ever seen. If the elderly and disabled cannot get care at home, it’s clear where they will go for care. Emergency room costs will rise, patients will go into more expensive institutionalized care, or patients simply won’t get any care at all. In addition to increasing Medicare costs, there will be an explosion in Federal and State Medicaid budgets. I believe the Senator from Mississippi would agree that the problems brought about by IPS are significant.

Mr. COCHRAN. Mr. President, the statements made by the Senator from Missouri are, I’m sad to say, quite true. Most recent official figures from 29 state health departments indicate that 2,000 more home health agencies have closed in those states. This number represents parent agencies; other data from the states indicate that the number of agencies and branches that have closed is much higher. We also know that there are close to 800 agencies on the brink of closing if some relief from IPS is not provided soon. If the current rate of closures continues, we could easily see a loss of 2,000 more home health agencies by October 1, 1999.

Agency closing are resulting in significant beneficiary care access problems. In fact, a recent GAO study found that two-thirds of discharge planners and more than a third of the aging organizations surveyed reported having difficulty in finding home health care for Medicare patients in the last year, especially those who need multiple weekly visits over an extended period of time. Matters will only get worse as agencies become more and more limited in their ability to provide needed services. In fact, in testimony before the Ways and Means Committee in August, Ms. Gail Wilensky, former head of the Health Care Financing Administration, warned that, if the Congress waits for proof that a crisis is occurring in home care before it acts, it will be too late. She also indicated that more money was taken out of home care than the Congress had expected when IPS was designed and then implemented by HCFA.

Mr. BOND. Mr. President, I might add at this time that despite the fact that HCFA is responsible for this draconian system, HCFA has only offered technical assistance to address this crisis. HCFA must be held accountable for this failure, for its inadequate system and its decision to face up to the fact that its system is wreaking havoc throughout our country.

Clearly the program cannot continue under this scenario and continue to provide quality services to eligible individuals. Some of my colleagues may wonder how this all came about. Perhaps the Senator from Mississippi can provide some insight into this.

Mr. COCHRAN. Mr. President, I thank my colleague. In addition to HCFA imposing an untested payment system with the home health IPS, the scoring mechanism used by CBO to estimate savings resulting from the IPS included a ½ behavioral offset. What this means is that CBO presumed that for every $3 saved under IPS, agencies would find some way, through expanding the number of beneficiaries they serve, to make up $2 of every $3 lost under IPS. What has become clear, as was indicated by the Senator from Missouri, CBO’s behavioral assumptions about agencies increasing the number of beneficiaries served have not come to pass. Instead, we are seeing a near dismantling of the home care program as the result of IPS.

We have already seen the devastating effects of the interim payment system in my state of Mississippi. While I applaud the Senator from Mississippi to reform the interim payment system, we must commit ourselves to continuing this work as soon as the Senate reconvenes. I am particularly concerned that we must address the problems that will become more so as the number of beneficiaries served have not come to pass. Instead, we are seeing a near dismantling of the home care program as the result of IPS.

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Mr. CONRAD. Mr. President, I want to comment on the home health proposal that is before us and ask the Chairman of the Finance Committee to clarify his intentions with regard to addressing this issue in the next Congress.

The current home health interim payment system isn’t working. Under the current system, those agencies that abused the system and milked Medicare for every possible reimbursement are rewarded with generous cost limits. However, North Dakota agencies that did not abuse the system, that worked hard to keep their costs down, are penalized with unrealistically low limits. Not only is this terribly unfair, it creates a terrible incentive for efficient, low-cost agencies to go out of business and transfer their employees and their customers to agencies that have ripped off the system.

This system clearly penalizes North Dakota home health agencies and the beneficiaries who rely on their services. The median per beneficiary cost limit for North Dakota home health agencies is the second lowest in the country—a mere $2150 per year. In fact, the agency in North Dakota with the highest limit has a cap that is below the lowest limit in the state of Mississippi. There is no rational basis for this sort of inequity.

Unfortunately, the proposal before us today takes only the smallest of steps toward correcting this inequity and leaves in place too many of the current incentives that favor high cost, wasteful home health agencies. I do not see how I can, in good conscience, go back to North Dakota home health agencies and tell them that we can only lift their payments rates 2 or 3 percent when agencies in other parts of the country will continue to have payment limits 3 and 4 times as high as theirs. It is a cut. It is not good policy. It is not good enough. For that reason, I will feel constrained to object to this legislation unless I can be assured by the Chairman of the Finance Committee that there will be an opportunity to do better next year.

Mr. ROTH. Mr. President, I thank the gentleman from North Dakota for his comments. He is right; this change is only a small step. It does not “fix” the interim payment system. However, in the time remaining this year, this is the best we can do. It takes an important step toward making the system more fair, and it reduces the perverse incentives in the current system. In addition, it recognizes that the Prospective Payment System for home health will be delayed, so it delays, for one year the 15% cut in payments that is currently scheduled to go into effect on October 1, 1999.

I want to assure my colleague from North Dakota, and the gentleman that I fully intend to revisit the home health issue next year. At that time, I pledge to work with him and other members of the Finance Committee to see if we can come up with a system that better addresses the needs of North Dakota home health agencies.

Mr. CONRAD. I thank the Chairman. With that assurance, I will drop my objection and let this legislation move forward.

ADDITIONAL COSPONSORS
S. 230
At the request of Mr. Grams, the name of the Senator from Montana (Mr. Burns) was added as a cosponsor of S. 230, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

SENATE JOINT RESOLUTION 56
At the request of Mr. Grassley, the names of the Senator from Oklahoma (Mr. Nickles) and the Senator from Alabama (Mr. Sessions) 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 1 drugs, for medicinal use.

SENATE CONCURRENT RESOLUTION 108
At the request of Mr. Doegan, the name of the Senator from Minnesota (Mr. Wellstone) was added as a cosponsor of Senate Concurrent Resolution 108, a concurrent resolution recognizing the 50th anniversary of the National Heart, Lung, and Blood Institute, and for other purposes.

ADDITIONAL STATEMENTS

TRIBUTE TO INDIANA STAFF
• Mr. COATS. Mr. President, I rise today to pay tribute to an outstanding Nevada County Attorney and a county judge, Judge Jan Smith. At the age of seventy-one, after years of service as Justice of the Peace for the Jean-Good Springs community, Judge Smith will retire from the bench next year. I want to take the opportunity to honor Judge Jan for her efforts to improve the lives of so many Americans, because her accomplishments have helped us all.

I have been fortunate enough to be a first hand witness to some of Jan’s incredible achievements. I have watched her rise from legal aide and working mother in the early nineteen sixties to become one of Nevada’s most influential judicial officers.

After toiling away as a legal secretary for a District Attorney and a county judge, Judge Jan was deeply involved with a variety of grass roots causes. She was one of the first women in the state to be an advocate on behalf of the environment. In the city of Henderson, she canvassed neighborhoods and city hall to prevent industry from inflicting permanent damage to the environment. As a mother of six, she was insightful enough to take action so that her children could grow up with an ample supply of clean air and water.

Judge Smith was also a champion for the underprivileged. She worked tirelessly to create opportunities for the poor and disadvantage in Nevada. Like many of her contemporaries, she...
marched on behalf of women and children who needed a “hand-up”, rather than a donation or handout.

When I served as Nevada’s Lt. Governor, I began working closely with Jan when she was chosen to run the Southern Office of the Governor Mike O’Callahan. Savvy and determined, she made an impression on everyone she worked with throughout those six years. Much of her success on the job came from her staunch work ethic and strong ties to both her family and the community.

The people of Nevada were truly fortunate to have Judge Smith come out of semi retirement to accept an appointment as a Justice of the Peace for the Jean-Good Springs district. She single-handedly reorganized the court so that it eventually became a model of fairness and efficiency. She has subsequently been reelected with overwhelming community support.

Judge Smith is one of the unsung heroes of the American justice system. Like many of our nation’s Justice of the Peace Officers, she does not typically preside over big dollar, high drama cases. However, those like Judge Smith are the representatives of our legal system in contact with everyday Americans. Professionals like Jan do more to preside over basic public safety issues because they handle the difficult events that are all too common in communities across the country—drunk driving and domestic violence. Essentially, Jan’s career has required her or exercise judgement and make tough decisions that have lasting impact.

Judge Jan Smith truly believes in the law, as a fellow officer of the court and United States Senator, I have relied upon Judge Smith’s trademark intelligence and honesty, as well as her ability to astutely assess the character and behavior of the many Nevadans who visit her court.

Much of my admiration for Judge Smith stems from her enduring commitment to people of the Silver State. Her values are reflected not only in the way she lives her life, but in the many organizations she has served over the past thirty years. Judge Smith’s lifetime of achievement is truly an inspiration, and she serves as an incredible role model for judicial prudence, legal acumen, and personal integrity.

REAUTHORIZATION OF THE OLDER AMERICANS ACT

Mr. HUTCHINSON. Mr. President, on Friday, October 10th, I became a co-sponsor of legislation introduced by Senator MCCAIN that would reauthorize the Older Americans Act. This Act, established in 1965, established a series of programs to benefit older Americans. Services provided include nutrition, transportation, nursing home ombudsmen, and other social and rights programs. Needless to say, Arkansas, which has over 200,000 senior citizens, has benefitted greatly from the services provided through the Older Americans Act. In addition, the organizations in Arkansas that have received funding through the Act have done an incredible job in reaching out to our seniors.

While the Older Americans Act expired in 1995, its programs have widespread support, which has resulted in continued funding. Nonetheless, authorization is critical for the long-term stability of these programs and for the peace of mind of senior citizens, the elderly, and the disabled. Mr. Chairman, the progress made to date has occurred in large measure due to the Commission’s firm, results-oriented approach. I urge him to continue to keep the Japanese honest, and to perform their agreed upon obligations.

Hal Creel also has led the Commission in its efforts to resolve unfavorable trading conditions with the People’s Republic of China and Brazil. These trades pose differing problems, but circumstances that nonetheless restrict U.S. companies or render their business dealings unnecessarily difficult or simply inefficient.

Hal Creel is widely respected by all sectors of the industry as an involved, knowledgeable Chairman who can be trusted to make impartial decisions based on all relevant factors. This has been evidenced by the objective, informed decisions he renders in formal proceedings, his voting record on important industry matters, and the even-handed enforcement program administered by the Commission. As Chairman of the FMC, Hal Creel has worked hard to curb harmful practices and create equitable trading conditions for the entire industry. His personal stake in these matters and works hard to obtain compliance with the laws passed by this Congress. But those who willfully violate the law or intentionally disregard the Nation’s ocean shipping policies as contained in the Shipping Act are dealt with appropriately.

These are turbulent times in the liner shipping industry, times that call for effective and respected leadership. Mr. Creel has been confirmed to be a Federal Maritime Commissioner for four years. He has served the last two and a half years as the agency’s Chairman. As Chairman, he has demonstrated a wide-ranging knowledge of the maritime industry and an outstanding ability to oversaw industry activities. Our Nation is extremely fortunate to have such a dedicated individual at the helm of this important government body.

Mr. Creel and the Federal Maritime Commission have taken steps for overseeing all international liner shipping in the U.S.—over $500 billion in trade. His efforts in the controversy surrounding Japan’s restrictive port practices come immediately to mind.

The Government of Japan for many years has orchestrated a system that impedes open trade, unjustly favors Japanese companies, and results in tremendous inefficiencies for anyone serving Japan’s ports. The FMC, under Mr. Creel’s guidance, met these problems head-on and he was instrumental in bringing the two governments to the bargaining table. The bilateral agreement that resulted paves the way for far-reaching changes that can remove these unfair barriers to trade. The progress made to date has occurred in large measure due to the Commission’s firm, results-oriented approach. I urge him to continue to keep the Japanese honest, and to perform their agreed upon obligations.

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demonstrated his abilities and intellect time and time again. He is well suited to be a Federal Maritime Commissioner. Currently, John works representing the American Waterways Operators, as their Vice President for legislative affairs. John also has an outstanding reputation within the maritime and transportation industry sectors.

I congratulate these two deserving individuals, who have been appointed to the agency which plays such a critical role in international trade.

THE REPUBLICAN PATIENTS’ BILL OF RIGHTS ACT

Mr. ENZI. Mr. President, I rise to speak in strong support of S. 2330, the Patients’ Bill of Rights Act. As an original cosponsor, I’m confident that this legislation is the logical step to ensure Americans accessible and affordable healthcare.

On January 13, 1998, the Majority Leader created the Republican Health Care Task Force to begin pouring the foundation for a comprehensive piece of legislation that would enhance the quality of American lives without dismantling success and affordability. For the last seven months, the task force met every Thursday—and other times as needed—with scores of stakeholders prior to writing this bill. Such thorough steps in writing a bill have clearly paid off. We are confident that this legislation will provide patients’ rights and quality healthcare without nationalized, bureaucratized, budget-busting, one-size-fits-all mandates.

In 1993, President and Mrs. Clinton launched an aggressive campaign to nationalize the delivery of healthcare under the guise of modest reform. The sales pitch was backed with scores of anecdotes illustrated from Presidential podiums across the country. The stories were sold on the heartstrings of all Americans and were intentionally aimed at injecting fear and paranoia into all persons covered or not covered by private health insurance.

I am quick to ask my constituents interested in the President’s bill to carefully examine the fine print. It’s no surprise to me that most of them already have. The American people haven’t forgotten the last time this Administration tried to slip nationalized healthcare down their noses. Folks in this town may be surprised to learn that the American people aren’t a bunch of pinheads. Anyone can put lip-talk on a pig, give it a fancy Hollywood title, and hope for an election-year slam dunk. Expecting my constituents to pay for healthcare out of their own pockets without pre-miums to get it, they’ll most often have to go without insurance. It’s that simple.

I remember the reaction Wyoming residents had to the 1993 “Clinton Care” plan. I was a State Senator living in Gillette, Wyoming at the time. I recall how the President and First Lady rode a bus across America—promoting nationalized healthcare. I also remember the door they took when they arrived at the Wyoming border. Instead of entering my home state, they chose a more populated route through Colorado. That was an unfortunate beginning for the most important healthcare point. Had they driven all 400 miles across southern Wyoming, they would have seen for themselves why one-size-fits-all legislation doesn’t work in rural, under-served areas.

Affordable and accessible care is the life-line for Wyoming residents. I live in a city of 22,000 people. It’s 145 miles to another town of equal or greater size. Many of my constituents have to drive up to 125 miles one-way just to receive basic care. More importantly, it’s the difficulty we face enticing doctors and practitioners to live and practice medicine in Wyoming. I’m very proud of Wyoming’s health care professionals. They practice with their hearts, not the dollar.

In a rural, under-served state like Wyoming, only three managed care plans are available and that covers just six counties. Once again, this is partly due to, ignition, ignorance, or incompetence. Managed care plans generally profit from high enrollment, and as a result, the majority of plans in Wyoming are traditional indemnity plans—commonly known as fee-for-service. Some folks might wonder why I am so concerned about the President’s healthcare package, especially since it’s geared toward managed care. I’m concerned because a number of Wyoming insurers offer managed care plans and simply re-bundled an existing plan before their ailment advanced or even took their life. A big settlement for endless litigation, the President’s bill, however, would allow a patient to sue their own health plan accountable. The President’s bill, however, would allow a patient to sue their own health plan and tie up state courts with litigation for months or years. The only people that benefit from this would be trial lawyers. The patient, however, would be lucky to get a decision about their plan before their ailment advanced or even took their life. Even important legislation doesn’t do much good if you got it, because you died while the trial lawyers fiddled with the facts. Folks aren’t interested in suing their health plan. They watch enough court-TV shows to know how expensive that process is and how long it takes to get a decision made. This isn’t L.A. Law—it’s reality.

The Republican Patients’ Bill of Rights avoids all this by incorporating an internal appeals process that doesn’t extend for months or years. The only people that benefit from this would be trial lawyers. The patient, however, would be able to access an external review by independent medical experts. Getting quick decisions saves lives.

The President has repeatedly said that the Republican Patients’ Bill of Rights should apply to all health insurance plans. Such claims are no different than those made by the President back in 1993. He wants nationalized—pre-insured—healthcare, and he wants Washington—nationalized care. The reason this won’t work is that it fails to take into account the unique type of healthcare provided in states like Wyoming. While serving in the Wyoming State Legislature for 10 years, I gained tremendous respect for our state insurance commissioner’s ability to administer quality guidelines and insurance regulations that cater to our state. State regulation and understanding is absolutely, unequivocally essential. I firmly believe that decisions which impact our state’s health insurance should
to be made in Cheyenne—not Washington.

Congress has an obligation to ensure such quality services to the 124 million ERISA enrollees whose plans are currently absent these protections. In doing so, however, the Republican bill stays within its jurisdictional boundaries and doesn’t trample over states’ rights. As a result, Americans can gain protections whether they are insured under ERISA, or Medicare-regulated plan. I believe that this approach is rational and fair.

The Republican Patients’ Bill of Rights would provide individual rights with respect to a person’s own, personal medical information. Access to personal medical records is a delicate matter. Provisions, however, are included to address inspection and copying of a person’s medical information. Safeguards and enforcement language has also been played to ensure confidentiality. In relation to this language, group health plans and health insurance issuers in both the group and individual market would be prohibited from using any medical information in making decisions about health insurance coverage or setting premium rates.

The Republican plan would establish the Agency for Healthcare Quality Research. This is not a new federal agency, but rather a new name for the current Agency for Health Care Policy and Research within the Department of Health and Human Services. This agency would be dedicated to improving healthcare quality throughout America. The agency would not mandate a national definition of quality, but it would provide information to patients regarding the quality of care people receive. This would then allow individuals to make prudent purchases based on quality.

The Senate Labor Committee held a number of hearings in relation to women’s health research and prevention. As a result, the Republican Patients’ Bill of Rights includes a number of important provisions that represent women’s health. These provisions will clearly benefit the promotion of basic and clinical research for osteoporosis, breast and ovarian cancer, the effects of aging and other women’s health issues.

Finally, the Republican Patients' Bill of Rights would broaden access to coverage by removing the 750,000 cap on medical savings accounts (MSA’s). MSA’s are a success and should be made available to anyone who wishes to control their own healthcare costs. More than 2,400 people who paid for their own health insurance could deduct 100 percent of the costs if the Republican plan is enacted. This would have a dramatic impact on folks from Wyoming. These provisions would, without a doubt, be the way for quality healthcare to millions of Americans without dismantling access and affordability.

While the President’s bill has been pitched as being essential to enhancing the quality of care Americans receive, I hope that my colleagues will carefully evaluate the impact that any nationalized, bureaucratized, budget-busting, one-size-fits-all bill would have on our healthcare system. As I have encouraged my constituents to read the fine print, I ask my colleagues to consider how the President’s legislation impacts you and your home state. Rural states deserve a voice. Too often the Republican Patients’ Bill of Rights Act would give them that voice.

HURRICANE GEORGES AND THE DISASTER MITIGATION ACT OF 1998

• GRAHAM, Mr. President, on September 30th, with my colleagues Senator MACK and Florida Governor Lawton Chiles, I participated in a helicopter tour of Florida’s Panhandle, where once again, Mother Nature has subjected Florida’s citizens to her wrath. After first devastating the Florida Keys, Hurricane Georges moved northward and severely impacted the Panhandle, piling my rainfall in excess of 2 feet in some areas.

In the Florida Keys, Georges damaged over 1,500 homes destroying or causing major damage to approximately 640 residences. Initial estimates indicate that Georges caused over $250 million in insured damage in the Keys, and there are millions more in uninsured damages. Many residents in the lower Keys have only recently had their power restored, and Federal, State, local, and voluntary agencies provided food, water, and ice for more than a week as the Keys finally emerged from this emergency situation.

Unfortunately—as I was able to view firsthand—Georges path of destruction did not end in the Keys. Even in its weakened state, Georges caused extensive flooding and isolated tornadoes throughout the Panhandle. At least 20 major roads were closed or partially closed, and evacuations continued, in parts of the region for days in many low-lying areas. During my visit to the area, 14 shelters remained open, providing safe harbor for at least 400 Floridians who had been forced from their homes.

As a result of this hurricane, the President issued an emergency declaration for 33 Florida counties, in order to provide immediate Federal assistance to protect the lives and property of affected residents. On September 28, the President issued a major disaster declaration for Monroe County, which authorizes Federal disaster recovery assistance for local governments and citizens in the Florida Keys. As of today, 16 counties in and around the Panhandle have been added to this declaration. I want to acknowledge the outstanding efforts of both the President and the Federal Emergency Management Agency (FEMA) in d宣言 Federal assistance to the State of Florida.

Mr. President, throughout 1998, I have come to the Senate floor to describe the destruction and misery that Florida has experienced as a direct result of natural disasters. This year, Florida has been subjected to a series of unprecedented natural disasters. Even for a state that is experienced in dealing with such disasters, Floridians have been tested again and again by weather. These disasters are making available to anyone who wishes to control their own healthcare costs.

Moreover, persons who pay for their own health insurance could deduct 100 percent of the costs if the Republican bill stays within its jurisdictional boundaries and doesn’t trample over states’ rights. As a result, Americans can gain protections whether they are insured under ERISA, or Medicare-regulated plan. I believe that this approach is rational and fair.

The Republican Patients’ Bill of Rights would provide individual rights with respect to a person’s own, personal medical information. Access to personal medical records is a delicate matter. Provisions, however, are included to address inspection and copying of a person’s medical information. Safeguards and enforcement language has also been played to ensure confidentiality. In relation to this language, group health plans and health insurance issuers in both the group and individual market would be prohibited from using any medical information in making decisions about health insurance coverage or setting premium rates.

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the state, and local governments for the immediate costs of meeting the emergency—such as in providing police and fire services, maintaining shelters or in restoring vital services.

It also activates several federal programs to aid in a county’s long-term recovery. That array includes unemployment assistance, which may have been lost or interrupted because of the disaster; mortgage assistance; low-interest loans to help businesses and farmers get back on their feet; money to rebuild highways or restore other services—including replacing lost tax revenues from damaged businesses; and money that can be used to avert future disasters, such as constructing dikes against floods or beach dunes against hurricanes.

Variety of Disasters

What distinguishes 1998 from previous years is the variety of disasters that has fallen upon the state. Besides hurricanes, which can destroy people and property through high wind and rain, this year’s declarations have included several for killer tornadoes, one for massive flooding, and most dramatic of all—one for infernal fires that raged for nearly two months over an area that at one point stretched nearly from Tallahassee to Miami.

Missing only were the biblical swarms of locusts and the biblical bubonic plague.

Myers said his personal disaster calendar began last Christmas, when he was summoned to the state’s emergency-management headquarters to monitor a winter storm exploding out of the Gulf and hammering counties in Central Florida, the storm—considered the shock troops of El Niño—spat, off dozens of tornadoes, washed out hundreds of homes and virtually ruined tomato and strawberry crops that were ripened to the nation’s emergency-manage-

ment, which has been reported out of the Environment and Public Works Committee. This legislation will more comprehensively and efficiently address the threats we face from disasters of all types. The bill is composed of two titles: Title I seeks to reduce the impact of disasters by authorizing a “pre-disaster mitigation” program; Title II seeks to streamline the current disaster assistance programs to save administrative costs, and to simplify these programs for the benefit of States, local communities, and individual disaster victims.

To address the problems associated with the damage-repair-damage-repair cycle, the legislation places its primary emphasis on comprehensive pre-disaster mitigation. This bill will authorize a five-year pre-disaster mitigation program, funded at $35 million per year, to be administered by the Federal Emergency Management Agency, or FEMA. The pre-disaster mitigation program will change the focus of our efforts, at all levels of government, to preventative—rather than responsive—actions in planning for disasters. Such a change in ideology is critical to reducing the short-term and long-term costs of natural disasters. It will encourage both the public and the private sector, as well as individual citizens, to assume responsibility for the threats they face by adopting the concept of disaster mitigation into their everyday lives. Just like energy conservation, recycling, and the widespread use of seat belts, disaster mitigation should become a concept that all citizens incorporate into their day-to-day existence.

Since 1993, under the leadership of Director James Lee Witt, FEMA has truly changed its way of doing business. In the past five years, FEMA has become more responsive to disaster victims and State and local governments, and has “reinvented” itself by choosing to focus its energy on mitigating, preparing, responding to, and recovering from the effects of natural hazards. FEMA has already taken an important first step in advocating pre-disaster mitigation by establishing “Project Impact,” their new mitigation initiative, in local communities throughout the nation. I am proud to say that Deerfield Beach, Florida, was the first community to be chosen as a participant in Project Impact. By authorizing the conduct of Project Impact for five years in this legislation, we will definitively endorse both the program and Director Witt’s leadership, and we expect that the initiative will produce measurable results in reducing the costs of disaster in the future.

Mr. President, this legislation is the result of coordination and cooperation with FEMA, the National Association of Emergency Management, the National League of Cities, representatives of the private and voluntary sectors, and numerous other state and local governmental organizations. I strongly believe that this legislation represents a historic change in the nation’s efforts to prevent the effects of natural disasters. By taking proactive steps to implement mitigation now, we will reduce the damage, pain, and suffering from disasters in the future that have become all too familiar to us from the disasters we have faced in the recent past.

Mr. President, I urge my colleagues to support Senator Inhofe and myself by joining with us in our fight to protect the citizens of the U.S. from disasters now and in the future. I ask the Senators who have most recently been affected by Hurricane Georges, as well as Senator...

Tornadoes in Miami

Holidays seemed as magnets to these storms. On Groundhog Day, another winter storm rumbled out of the Gulf and cut across the lower peninsula. This one triggered tornadoes in the heart of Miami.

Then came the Groundhog Day storm rumbled out of the Gulf and cut across the lower peninsula. This one triggered tornadoes in the heart of Miami.

Then came the Groundhog Day storm that ravaged 600 homes in Dade, Broward and Monroe counties. It left two tugboats parked on Sunny Isles Beach and caused $2 million in damage to the Keys’ lobstering industry.

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as the many Senators whose constituents have been impacted by catastrophic disasters over the past several years, to support this legislation and ensure its passage before the end of this session.

NATIONAL OPTICIANS MONTH
- Mr. GRAMS. Mr. President, January 1999 will be celebrated throughout the United States as National Opticians Month. I am pleased to inform my colleagues that one of my constituents, Gary R. Aiken of Minnetonka, Minnesota, is president of the Opticians Association of America, which is sponsoring the observance.

Nearly all Americans aged 65 or older require some help to see their best and sixty percent of Americans wear eye-glasses or contact lenses. Opticians, skilled in fitting and dispensing eye-glasses and contact lenses, provide the expert assistance we need to make the most of our vision. Technology has brought us literally thousands of possible combinations of eyeglass frames and lenses and an array of contact lenses. Dispensing opticians play a pivotal role in guiding eyewear customers to the combination which exactly fits their need.

Through formal education programs, voluntary national certification and mandatory licensing in many states, and programs of continuing education, dispensing opticians acquire the skills and competence to correctly, efficiently and effectively fill eyewear prescriptions. At the same time, retail opticians are an important part of our nation’s small business community and provide the competitive balance which keeps eyewear affordable for all Americans.

It is a pleasure to acknowledge the important role of dispensing opticians as they assist us all in making the most of our eyesight. I commend them for their efforts and congratulate Gary Aiken and the members of the Opticians Association of America for their accomplishments.

MICHAEL K. SIMPSON
- Mr. MOYNIHAN. Mr. President, I rise to pay tribute to New York’s Dr. Michael K. Simpson who last year completed ten years of service as President of Utica College at Syracuse University and is now President of the American University in Paris.

While at Utica, Dr. Simpson taught international relations, contemporary French politics, international law, the political economics of multinational corporations, macro- and micro-economics, and American foreign policy. He has also been a visiting professor at the Maxwell School of Citizenship at Syracuse University and director of Syracuse’s study center in Strasbourg, France.

In addition to his broad academic experience, Dr. Simpson has dedicated himself to the people of Oneida County, New York. As the community representative and chairperson of the Health and Hospital Council of the Mohawk Valley from 1987-1992, he led that Council toward developing a hospital consolidation plan for four area hospitals. That succeeded in making quality health-care more accessible and affordable to local residents. Since 1988 he has been a trustee of The Savings Bank of Utica.

I have had the privilege to speak at three commencements in which Mike Simpson participated at his graduation from Fordham College in 1970 when he earned his bachelor’s degree, at Syracuse University in 1983 upon receipt of his M.B.A., and during his tenure as Utica College President.

With great admiration and gratitude I commend Dr. Simpson for his commitment to excellence in education and his service to his fellow citizens of New York. I wish him all the best on his sojourn in Paris.

TAIWAN’S NATIONAL DAY
- Mr. KERRY. Mr. President, I want to take this opportunity to extend my congratulations to President Lee Teng-hui, Vice President Lien Chan and the people of the Republic of China today, on their National Day.

Taiwan has continued to prosper economically even in the face of the Asian financial crisis. As the world’s fourteenth largest economic entity, Taiwan plays a significant role in global trade and Asian economies. With its per capita income of $13,000 US dollars, Taiwan provides an important market for American consumer goods.

In addition to its economic successes, Taiwan has embarked upon a democratic course resulting in a pluralistic society which enjoys basic democratic rights and freedoms including freedom of the press and direct elections for the president and other officials.

The people and its leadership should be very proud of the successes that they have achieved. I congratulate them on this special day.

PRIVATE RELIEF BILLS
- Mr. LAUTENBERG. Mr. President, I am pleased that key members of the Senate have agreed to pass all the pending private relief bills in one package and send it over to the House.

I would thank the principals who have been involved in this effort, Senators HATCH, ABRAHAM, LEAHY and KENNEDY. This package will include my bill to help Vova Malofienko.

Let me tell you a little about Vova Malofienko. His family, Vova was born in Chernigov, Ukraine, just 30 miles from the Chornobyl nuclear reactor.

In 1986, when he was just two, the reactor exploded and he was exposed to high levels of radiation. He was diagnosed with leukemia in 1990, shortly before his sixth birthday.

Through the efforts of the Children of Chornobyl Relief Fund, Vova and his mother came to the United States with seven other children to attend Paul Newman’s ‘’Hole in the Wall’’ camp in Connecticut.

While in this country, Vova was able to receive extensive cancer treatment and chemotherapy. In November of 1992, his cancer went into remission.

Regrettably, the other children from Chornobyl were not as fortunate. They returned to the Ukraine and they died by one because of inadequate cancer treatment. Not a child survived.

The air, food, and water in the Ukraine are still contaminated with radiation and are perilous to those like Vova who have a weakened immune system.

Additionally, cancer treatment available in the Ukraine is not as sophisticated as treatment available in the United States.

Although Vova completed his chemotherapy in 1992, he continues to need medical follow-up on a consistent basis, including physical examinations, lab work and radiological examination to assure early detection and prompt and appropriate therapy in the unfortunate event the leukemia recurs.

Because of his perilous medical condition, Vova and his family have done everything possible to remain in the United States. Since 1992, they have obtained a number of visa extensions, and I have helped them with their efforts.

In March of 1997, the last time the Malofienkos visas were expiring, I appealed to the INS and the family was given what I was told would be final one-year extension.

So we have a family battling for over six years now, to stay in this country. And why? So that they can save the life of their child, Vova.

Because of the compelling circumstances of their case, I introduced S. 1469, which was approved unanimously by the Senate Judiciary Committee.

After I introduced that bill, Senator ABRAHAM, in his capacity as Chairman of the Immigration Subcommittee, requested a report from the INS and that stayed any further INS proceedings.

But at the end of this Congress they would be subject to deportation. That is why I have worked so hard to get this bill passed this session of Congress.

This family has endured enough. They cannot have the threat of deportation hanging over their heads. They are dealing with enough trauma from Vova’s cancer.

I wish my colleagues could meet Vova—then they would understand why I feel so strongly about this case. He is truly a remarkable young man.

Throughout his battle against cancer, he has been an inspiration. He has been an honors student at Millburn Middle School, and he is an eloquent spokesperson for children with cancer. He has rallied the community and helped bring out the best in everyone. His dedication, grace, and dignity provide an outstanding example, not just to young people, but to all Americans.
RECESS UNTIL 2 P.M. MONDAY, OCTOBER 12, 1998

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until Monday at 2 p.m.

Thereupon, at 4:10 p.m., the Senate recessed until Monday, October 12, 1998, at 2 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 10, 1998:

**IN THE AIR FORCE**

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<thead>
<tr>
<th>Name</th>
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<tr>
<td>COL. JAMES C. BURKE</td>
<td>brigadier general</td>
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<tr>
<td>BRIG. GEN. WALTER R. ERNST</td>
<td>major general</td>
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<td>BRIG. GEN. BRUCE W. MACLAINE</td>
<td>major general</td>
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<td>BRIG. GEN. PAUL A. POCHMARA</td>
<td>major general</td>
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<td>BRIG. GEN. MASON C. WHITNEY</td>
<td>major general</td>
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**IN THE ARMY**

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<tr>
<td>COL. HARRY A. CURRY</td>
<td>brigadier general</td>
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<tr>
<td>COL. JAMES C. KING</td>
<td>lieutenant general</td>
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<td>COL. EDWARD N. STEVENS</td>
<td>lieutenant general</td>
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<td>COL. STEPHEN T. THOMAS</td>
<td>lieutenant general</td>
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<td>COL. FRANK E. TOBEL</td>
<td>lieutenant general</td>
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**NAVY**

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<tr>
<td>CAPT. MARIANNE B. DREW</td>
<td>vice admiral</td>
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<tr>
<td>BRIG. GEN. MICHAEL L. DODSON</td>
<td>major general</td>
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**IN THE MARINE CORPS**

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<tr>
<td>NAVY NOMINATION BEGINNING JEFFREY M. DUNN</td>
<td>vice admiral</td>
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